AN ACCOUNT OF THE PURGING and PLANTING OF THE CONGREGATION OF DALKEITH.

CONTAINING,

I. The Copy of a late Paper, Intituled, *Information for Mr.* Alexander Heriot, *&c.*

II. A short Relation of the Presbytery of *Dalkeith*, their Procedure in reference to the Sentencing of Mr. *Heriot*, and their Planting of the Congregation of *Dalkeith.*

III. An Answer to that Paper, called, *Information for Mr.* Alexander Heriot (designed) *Minister at* Dalkeith,

Published for Information and Satisfaction of these who are willing and Desirous to know the Truth of the foresaid Affair, which has been very grosly Misrepresented by some; and particularly for the Information of the Members of the next General Assembly.

Edinburgh, Printed by *George Mosman*, and are
Sold at his Shop in the *Parliament-Close*, 1

ACCOUNT

OF THE

PREACHING & PLANTING

OF THE

CONGREGATION

OF

DALKEITH.

46
12 17
38 8.

PREFACE:

IN order to the more easie clearing and understanding of this Affair concerning the Congregation of Dalkeith, it will not be amiss in the first place to give the Reader the true Copy of that false Invective, called, Information for Mr. Alexander Heriot (designed after Deposition) Minister at Dalkeith: Which also may contribute something for stopping of Mr. Herior's Mouth, and preventing his frequent and causeless Clamours and Complaints, that his Defences are not heard, nor answered. This also is done, partly for the more full Information of all Readers, and especially of the Members of the next General Assembly, who may find in Mr. Heriot's own Paper (although it had no Answer annexed) such a Testimonial and Character of the Man himself, as may be sufficient to direct them unto a righteous Sentence in his Affair, and partly also to shew the fulness and pertinency of the following Account and Answer.

PREFACE

INFORMATION

FOR

Mr. *Alexander Heriot* Minister at *Dalkeith*.

In Relation to the Lybe against him, before the Presbytrie at *Dalkeith*, and the Sentences thereon.

And Petitions to the Lords of Their Majesties Privy Council.

The Appeal given in by the said Mr. *Alexander Heriot* to the Synod of *Midlothian*. containing a short Information of the Progress of that Process, to that time, is as follows.

MOderator, Being conscious of my Innocence, and finding my self Wronged, and Injured, I here Appeal from this Synod, to the first *General Assembly*, when it shall meet; And in the mean time to Their *Majesties Protection*, for Justice and Relief; and since the Law allows the Liedges a competent time to give in the Reasons of their Appeals; I here Protest within Twenty four hours, to give in the Reasons of this my Appeal to your Clerk; And withall, I protest that this be Recorded by him. And upon all I take Instruments.

The Reasons of Appeal of Mr. Alexander Heriot *Minister at* Dalkeith, *from the Synod of* Midlothian, *to the next Lawful* General Assembly, *And to* Their Majesties *Protection for Justice, and Relief in the mean time.*

THere being a Lybel given in to the *Presbytery* of *Dalkeith* against the said Mr. *Alexander Heriot*, and the Lybel bearing it to be given in, in the Name of the Parochiners, the said Mr. *Alexander Heriot* and Parochiners compeared, and craved that the Ingivers of the Lybel might be condescended upon, and that they might owne and subscribe it; And that in re-

regard that the ſaid Heretors and Parochiners did not only *Viva Voce.* but by a Write under their Hands Diſclaim and Diſowne it, except *Alexander Calderwood*, and a few others, *ex face populi.* And albeit no Lybel ought to be admitted without a Purſuer; yet the Presbytery refuſed to condeſcend upon the Ingivers of the Lybel, or to ordain them to own and ſubſcribe it. Likeas, none had the confidence to own it, except the ſaid *Alexander Calderwood*, who ſat among them as one of the Ruling Elders, and who is notourly known to be the ſaid Mr. *Alexander Heriot*'s declared Enemy (althô without cauſe) and who invented and reported moſt falſe Calumnies againſt him, of which when he was challenged, his anſwer was, That whether they were true or falſe, he had thereupon taken two hundred of the Parochiners from his Communion; And a Declinator being given in againſt him as Informer and Promoter of the Lybel, which not only conſiſted in the knowledge of the Presbytery (who had no other Information but his) but which was likewayes offered to be proven be his Oath; yet notwithſtanding thereof, againſt all Law, Reaſon, and good Order, the Presbytery would not remove him, but allowed him to ſit as one of Mr. *Heriot*'s Judges, and appointed him one of the Examinators of the Witneſſes: And he forgetting that ſtation, informed and tampered with ſome of them, and threatned others, as to what they ſhould depone: And the Witneſſes being overawed and interrupted in their Examinations, and not allowed to declare the hail Truth in complext matters of Fact, whereby the Depoſitions may be lame and weak, and carry a quite contrary meaning of the Truth, of what the Witneſſes offered to depone; And ſome of the Witneſſes having deſired that they might ſee and read their own Depoſitions before they ſubſcribed them, the ſame was abſolutely refuſed, with this Expoſtulation, What? do you diſtruſt us? and do you queſtion our Clerk's honeſty? And thus they cauſed theſe Witneſſes ſubſcribe what was written, ſo that there may be left out the material parts of their Depoſitions, which cleared their Miniſter. And not only are there ſeveral Articles of the Lybel, which are not upon theſe Heads, to which the Trial of the *Regular Clergy* is reſtricted be Act of *Parliament*, and which are in themſelves *alterius fori*, but likewayes there was an additional Lybel raiſed againſt the ſaid Mr. *Alexander*, and without any Citation given to him thereupon, or Copy, Sight or Notice given to him thereof, Witneſſes are examined, then all which there can be nothing in judicial Procedures more Partial, Pernicious, and Unjuſt. And Mr. *Alexander Heriot* having appealed from the Presbytery to the General Aſſembly; the Presbytery notwithſtanding thereof proceeded, and

found

found the Lybel Relevant and Proven; and therefore, and in regard of Mr. *Herior's* Contumacy (as they termed his Appeal to the General Assembly, which sat in *October* last) they Suspended him from the Ministry, and referred him for farther Censure to the General Assembly. But the General Assembly having found no Contumacy in the Appeal, they referred him to the Synod. And now the said Mr. *Alexander* does again Appeal from the Synod, and from any Sentence they shall give in this Matter, to the next lawful General Assembly, and in the mean time, to Their Majesties Protection for Justice and Relief. For this Grounds and Reasons.

Primo, There being a Petition given in by the Heretors and Parochiners of *Dalkeith* to the Synod, attesting, the said Mr. *Alexander* his Faithfulness in the Ministry, and his Innocency as to the things Lybelled against him; and craving, that according to the Act of *Parliament*, the Depositions of the Witnesses might be made patent, that they might be the better Redargued; yet the Synod suffered not the said Petition to be read.

Secundo, The said Mr. *Alexander* having represented to the Synod the foresaid Procedure of the Presbytery against him, and having craved that the Depositions of the Witnesses, might be read before him, and that he might have a Coppy of the Additional Lybel, which he had never seen; and that conform to the Act of *Parliament*, the Depositions of the Witnesses might be made patent to him, to the end that he might have a Copy thereof, to the effect he might the better clear himself, from any thing that may seem to be deponed against him; yet notwithstanding thereof, (and contrare to Law) the same was also refused by the Synod, and undoubtedly for this Reason, That the Probation was weak, and might not abide the Light nor Trial, for *Veritas non quærit Angulos*.

Tertio, The said Mr. *Alexander* having represented to the Synod, That he was informed that one of the Articles deponed against him, was, That he should have danced about a Bonfire the 14 of *October* 1688. And that the same was the only Article proven against him, which he instantly redargued, for the said 14 day of *October* 1688. fell upon a Sunday, and that the Witnesses and hail Inhabitants of *Dalkeith* cannot but declare, that there was never Bonfires at *Dalkeith* upon a Sunday, so that they deponed falsly. And the Dancing about a Bonfire being so publick an Act, that not only the Witnesses that have deponed it, but likewayes many others would have seen it, and all the Inhabitants of *Dalkeith* would have heard of it, if it had been true: Yet notwithstanding thereof, all the Neighbours to that Bonfire, and hail Inhabitants of *Dalkeith* will de-

declare and depone, that they neither saw nor heard of their Minister dancing at that, or any other Bonfire; yet notwithstanding of that clear Conviction, and redarguing of that Article, the Synod had no regard thereto, affirming that there was no help for it now, it being so deponed; which is no other thing, than as if they had said, that they were not concerned thô it were falle, for it was so deponed; and which is so consequential to a clear and positive Redarguing, and Improbation of the Article, and Probation thereof, that the prejudice and design of the Synod to proceed against the said Mr. *Alexander* upon whatever was alledged, althô without probation, or upon a Redargued Probation, is evidently manifest.

Quarto, The said Mr. *Alexander* represented to the Synod, that he had formerly Appealled from the Presbytry, and that it was but too evident from what is above narrated, that they were his Party. And which was farther demonstrate from this. That, the said Presbytery and *Alexander Calderwood*, did in face of the Synod not only interrupt the said Mr. *Alexander* when he was speaking; but likewayes debated and reasoned against him as Parties, so that it could not but be expected, but that they would do more when he was removed out of the Synod, and therefore the said Mr. *Alexander* declined the Presbytery and *Alexander Calderwood* as his Judges, and craved that they might not sit to judge him; yet notwithstanding thereof, against all Law and Justice, they were not removed.

Quinto, Several Members of the Synod interrupted the said Mr. *Alexander*, while he was Vindicating himself, in the face of the Synod, and craving a sight of the Additional Lybel, and Deposition of the Witnesses; And cryed out, That *the same should not be granted to him*, as if every one of them had had a Decisive Voice, and which is without Example in any Judicatory, for any of the Judges to interrupt the Defenders speaking, and to cry out their Opinion, or rather Sentence, before the Defender be removed; And which openly discovers their Prejudice, Design and Resolution of proceeding against the said Mr. *Alexander*, altho' without just cause.

Sexto. The Prejudice and Design of the Synods proceeding against the said Mr. *Alexander*, on the said lame, weak, and null probation, is evident, in so far as several Members of their Number did speak and deal with him to dimitt, or that otherwayes they would depose him. And there is no thing more certain, than that they would never have Dealt with him to dimitt, if the Probation against him had been good; Their malice to the *Regular Clergie* being such, as that they would rather Depose them for Immoralities, and Errors in Doctrine to Publish them, than to suffer them to dimit, and get off without staine, when they are guilty of the same.

But

But Mr. *Alexander* being Conscious of his own Innocency refused to Demit, but rather to suffer their Extremity, from which he hoped GOD in his good time would Vindicate him. And therefore it being evident from the Grounds forlaid, that the *Synod* has behaved themselves most partially, and against all Law and Form: The said Mr. *Alexander* does therefore Protest against the Synods further Proceeding in the said Matter, and appeals from them, and from any sentence they shall give therein, to the next *General Assemblie*, And to their MAJESTIES *Protection*, for Justice, and Relief in the mean time; And Protests, That the said Lybels, and Witnesses Depositions taken thereupon, may be preserved, and not put out of the way, That so the same (and not Copies thereof) may be produced to the next *General Assembly*; Or to any their *Majesties* shall be pleased, out of their Royal Authority, to appoint to consider the same: And that as the said Mr. *Alexander* will publish and disperse his Appeal, and his Answers to the first Lybel; Which he only did see for his own Vindication from any sentence that shall follow thereupon; So he expects, and earnestly Desires, that the said Synod may Print both the Lybels against him, And Depositions taken thereupon, for vindication of their Justice, (if they can conceive they have done right) But which Mr. *Alexander* hopes will rather vindicate his Innocency. And further, Mr. *Alexander* Craves, and *Protests*, That this his Appeal may be insert in the Books of the Synod.

Notwithstanding of the Appeals forsaid, the Synod proceeded, and Depoled the said Mr. *Alexander* from his Ministrie, And thereupon the Eldership of the Parish was invaded, and some few, (severals of them scarce worth to be noticed as Residenters, have usurped the power of electing Elders, and have elected many moe than the number formerly used, purposely as they think, to make the greater Figure; altho but of the most inconsiderable of the Paroch; And of Design to Call, Impose, and Obtrude a Minister upon the Rest against their will, contrary to the Laws of Charitie, *Practices* of Christian Churches, and profession of Presbyterians; Notwithstanding that the said Mr. *Alexander Heriot* his Appeal does preserve his Right, and keeps all in *statu quo*, the time of the Appeal, while it be discust.

Whereupon, not only the said Mr. *Alexander Heriot*, but likewise the Heritors and Parishioners of *Dalkeith*, have given in a Petition to the Lords of their *Majesties* most Honourable Privy Council, That they may be pleased to discharge the Calling of a Minister while the Appeal be discust; And that in the mean time, he may be restored to the Exercise of his Ministrie. And that the *Presbytrie* of *Dalkeith*, And others havers of the Lybels

given

given in againſt him, and Depoſitions of the Witneſſes may make the ſame patent to him, as Law appoints; That he may know what is lybelled, or may ſeem to be proven, to the effect he may the better clear himſelf of the ſamen, which is nothing but falſe lyes and calumnies: And whereof ſeveral of the Presbyterian Miniſters, who have ſeen the Lybels and Depoſitions, Affirm, that there is nothing proven. But the dancing about the Bon-Fire, which is not only clearly redargued to be falſe as ſaid is, there being no Bonfires either on the foreſaid day, nor for ſeveral moneths either before or after; But likewiſe if the perſons who have deponed it were known, and re-examined, it will be found, they have deponed falſly; And that they have been dealt with ſo to Depone; And that this Falshood may not be diſcovered, not only are the Depoſitions kept up, contrary to expreſs Law and Act of Parliament; But likewiſe, no notice can be gotten who were the perſons who have deponed it, that they may be inſiſted againſt.

Whereas it is pretended, That the Lords of their *Majeſties* Privy Council, are not Judges competent to the ſentences of *Eccleſiaſtick Courts*, and that as they cannot put in Miniſters in Churches, ſo they cannot meddle with ſentences of Depoſitions. It is anſwered, 1*mo*. That be the 1: *Act* 8 *Parl*: *Ja*: 6: It is Statute and Ordained, *That his Majeſtie, and Council ſhall be Judges competent, To all perſons Spiritual and Temporal, in all matters.* And to pretend, that the Council is not Judge competent to ſentences of *Eccleſiaſtick Courts*, is no other then to affirm, *That theſe Courts have an Arbitrary power, and may do wrong at their pleaſure without Remeed or controll.* For it is evident, That Mr. *Herior* is moſt unjuſtly purſued and Depoſed. And it is alſo evident, that if it be not Redreſſed be the Council, he will never be Reſtored be thoſe Miniſters, who have dealt ſo unjuſtly with him.

And whereas, it is alledged, *That as the Council cannot put in Miniſters, ſo they cannot meddle with ſentences of Depoſition.* It is anſwered, That the Council has not the power of Admiſſion and Ordinarion of Miniſters. But if a Miniſter having a lawful Call, the Presbyterie ſhould refuſe to Admit and Ordain him, albeit they have nothing to object againſt him, upon Application to the Council or Seſſion, Letters will be direct to Charge the Presbyterie, to Admit and Ordain him, but *multo magis* in this caſe, where a Miniſter is Depoſed from his Miniſtrie, as likewiſe from his Benefice, (which is his Livelyhood and Maintenance) And yet moſt unjuſtly, and without Ground or Reaſon; The Council is moſt proper Judge, for Reſtoring him againſt the foreſaid Oppreſſion, Injurie and Unjuſt Sentence.

And I

And for a further evidence of this unjuſt Sentence, it is Humbly deſired, that the Lords of Their Majeſties Privy Council will be pleaſed to take notice, That in the firſt Lybel there are many Articles which are not Relevant; And it is ſaid, that there is none of them proven, but the Dancing about the Bonfire: And yet the Presbytery by their *Sentence*, found the Lybel Relevant and *Proven*, which muſt be underſtood as to the haill Articles of the Lybel complexlie, then which there is nothing more falſe as will appear by the Lybels and Depoſitions, if they were produced. And yet thereupon Mr *Heriot* is firſt ſuſpended be the *Presbytery*, and referred be them to the General Aſſembly for further Cenſure, as if great Immorralities in Life, and Errours in Doctine, had been proven againſt him. And the Synod (to which the Aſſembly remitted him) following the ſteps of the Presbytery, depoſed him. Now when Presbytery and Synod, have acted thus contrary to expreſs Law, and have done open and manifeſt Unjuſtice; (and whereof all that heard of it are convinced and ſenſible) And having ſtated themſelves Parties againſt him, there can be no Remedie expected from the ſaid Unjuſtice, Injury, and Oppreſſion, unleſs the Lords of Their Majeſties Privy Council interpoſe their Authority.

If it be alledged, That be the late Act of Parliament, The Act of Supremacy in Church matters is Reſcinded; It is Anſwered, That the Act of Parliament 1669 is Reſcinded, which extended the Supremacy, to the Ordering and Diſpoſal of the External Government and Policy of the Church, and to the Enacting of Conſtitutions, Acts, and Orders in the Church. But the foreſaid Act of K: *Ja:* 6 his 8 *Parliament*, is not Reſcinded, which is only as to the Judging of *Eccleſiaſtick* Perſons in matters complained upon, And which power is inherent to the Crown, otherwayes there ſhould be *Regnum in Regno*; And Church Judicatories ſhould have Arbitrary power, without Redreſs or Control, as ſaid is.

In Regard whereof, The Lords of Their MAJESTIES Privy Council are Judge Competent, to this Injurie, Unjuſtice and Oppreſſion; And the Deſire of the Petitions ought to be Granted.

A short Relation of the Presbytery of Dalkeith *their procedure in Reference to the Sentencing of Mr.* Alexander Heriot *and their planting of the Congregation of* Dalkeith.

IT is not to be doubted, but that a late Pamphlet called *An Information for Mr. Alexander Heriot* (Designed) Minister *at Dalkeith*, hath spread through a great part of this Kingdom; and it may perhaps be thought strange, that none of the Members either of the Presbytery of *Dalkeith*, or Synod of *Lowthian* and *Tweddale*, have appeared to vindicate the Innocency of these Judicatories, and to wipe off the foul Aspersions cast upon them by that defamatory Paper. But the truth is, an Answer to that Paper was prepared about four Moneths ago, and the Reason why the publication thereof was at that time delayed, was because it was judged convenient to know the mind of the Synod (whose integrity was also questioned and reproached by the Informer) before any Answer to that Paper should be emitted. But the Synod sitting in May last, and judging the Calumnies of that Paper obvious enough, declined to trouble themselves with any review thereof as a thing not worthy of their time: But some of the Synod put it in the hands of a Person, whose acquaintance with the process of Mr. *Heriot* qualified him to descry the Informers lies thereanent. And again, this Person being diverted with a throng of business, till the Plantation of the Kirk of *Dalkeith* was near an Issue, it was thought expedient still to forebear the Answer of that Paper, till the Answerer might be able to give a joynt view of the process of Mr. *Heriot*, and of the method taken for the settlement of the Paroch of *Dalkeith* with a qualifyed Minister: Which being now brought to an happy Period, it seems high time, after so long forbearance, to undeceive all that are willing to know the truth; and to give in the first place a compendious, but distinct account of the Process, and then refell the Informers mis-representation of the same, only let this be premitted, that the reason why the names of the Witnesses are not exprest, the Reader will find in the Answer to the Information.

To begin with the Process then; the Reader may remember that the Act of Parliament Restoring Presbyterial Government Authorized the General Meeting of Ministers and Elders to Purge the Church of Ministers that

that were Insufficient, or Scandalous, &c. Either by themselves or such as they should appoint. Whereupon the General Meeting enjoyned Synods and Presbyteries to receive Lybels against any Incumbent within their respective Bounds, and to call for Assistants from Neighbouring Presbyteries or Synods to concurr with them in judging the same: In complyance wherewith, when the Presbytery of *Dalkeith* received any Information againgst any of the late Conformists within their Bounds, they did not proceed without the assistance of some from the Presbyteries of *Edinburgh* and *Haddingtoun*; and particularly when the Procels of Mr. *Heriot* was led before them, which proceeded thus.

Upon the 7th of *August* 1690. An Information or Lybel was given to the Presbytery against Mr. *Alexander Heriot* then Incumbent at *Dalkeith*, which being judged Relevant, Citation was appointed to be given him to compear against that day eight dayes; at which day Mr. *Alexander Heriot* did personally compear, heard his Lybel read, received a double thereof, and was granted a competent time to answer it, *viz.* till the 28th day of the said moneth of *August*, unto which day he was summoned *apud Acta* to compear again and give in his answers. But on that day, the Visitation (consisting of the Presbytery of *Dalkeith*, and assistance from the Presbyteries of *Haddingtoun* and *Edinburgh*) being constituted, and Mr. *Heriot* Legally called, he did not personally compear; but for him appeared one Mr. *James Hamiltoun* alledging a Commssion from Mr. *Alexander Heriot* to compear in his name, and desiring to know who were his Accusers, that they might subcribe his Lybel. The Copy of Mr. *Hamiltouns* Commission or procuratory follows, which the Reader is desired to consider, because that Mr. *Heriot* in his Information, and in his Appeal from the Synod, calls it an Appeal from the Presbytery, and improves it under this Character.

The Copy of Mr, *Heriots* Factory and Declinatour.

I Mr, Alexander Heriot *Minister at* Dalkeith, *do by thir presents nominate and constitute* Mr, James Hamiltoun *Writer at* Edinburgh *to be* Procurator *for me to the effect underwritten, giving and committing to him full power in my name to compear before the Ministers of this Meeting within the Presbytery of* Dalkeith, *to whom there is a Lybel given in against me, and to crave*

that

that the Accusers may be condescended upon and subcribe the Lybel; in regard the Heretors and Parishioners (in whose name it is pretended to be given in) disowns the same, and to protest that before the same be subscribed, it ought not to be respected: and in regard I conceive that these Ministers are not the Presbytery of Dalkeith, *and that by the Act of Parliament they have no judicative Power while it be given them by the General Assembly which is to be in* October *next, therefore to protest and declare that any compearance made herein shall not import an acknowledgment of their pretended Judicatory and Jurisdiction, which I hereby disown and disclaime, but that the said compearance was and is to know the Lybel and Lybellers that I may vindicate my self from the false Calumnies and Accusations therein contained: And upon the bail premisses take Instruments in the Hands of an Notar. In witness whereof their presents are subcribed with my own Hand, the* twenty eight *of* August *1690 Years. Heriot*

The Presbytery and assistance having considered this Paper, wherein Mr. *Heriot* does decline the Presbytery in most contemptible Expressions, thought it not proper to Debate with Mr. *James Hamiltoun in Causa*, nor yet to admit of any Procuratory, nor of Accusers, or any under that Character to subscribe the Information or Lybel; and also considering that Mr. *Heriot* did not compear personally as he was obliged, thought fit forthwith to proceed to the leading of Witnesses: for, though the Declinator yielded sufficient ground of Censure, yet to prevent all Clamours, it was thought expedient to try the truth of the Lybel.

The Officer, having been appointed to cite Witnesses, gave in his Executions, which being read, the Witnesses were called, and all who compeared, after invocating the Name of God, were Sworn and purged of malice and partial Counsel; and being severally examined, the Presbytery and their assistants collated their Depositions, and applying them to the several Articles of the Lybel, they found several Articles duely proven, as follows.

1. *Extravagant Lightness in Dancing about a Bon-fire publickly on the street with Pipe and Drum and Drinking an Health upon his Knees.*

For instructing this Article three witnesses, being examined, in their Depositions they concurr, That they saw Mr. *Alexander Heriot* dance about a Bonfire in the publick Streets of *Dalkeith* with *Pipe* and Drum and drink an Health upon his Knees. What is alledged by the informer against this Article and to invalidate the testimonies of the Witnesses is afterwards considered and answered.

2. *Ordinary and usual prophaning of the Lords Table by admitting of Scandalous persons and such as were notourly prophane in their Lives: As habitual Drunkards, Swearers and the like, and several instances given hereof.* To

To this Article deponed *six* Witnesses all concurring that Mr. *Alexander Heriot* admitted to the Lords Table Scandalous persons and two condescend upon the instance of *John Dickson*, and four, whereof two are Elders pitched upon *Andrew Nivil* besides other Scandalous persons named.

This Article alone, being thus fully proven makes Mr. *Heriot* deserve the Sentence of Deposition especially because there is an Act of the General Assembly *Anno* 1598 Ratified by the Assem. *Anno* 1638. for deposing such prophaners of the Lords Table.

3. *His debauching the consciences of his Parishioners by pressing and threatning them upon highest pains to take many Oaths contrary to their Light.*

Touching this Article: two Witnesses agreed that upon the Sabbath immediatly preceeding the day that the Oath of Abjuration was tendered, Mr. *Alexander Heriot* did threaten all with pain of death that should refuse it. Four concurred in this, that Mr. *Heriot* pressed his Parishioners to swear several Oaths, whereof one was Sinful and Illegal as the Oath that they should not lift Arms against the King nor any Commissionate by Him *upon any pretext whatsoever.* Others were captious, as who and how many had been lodged by them since *November* preceeding, and the like. Others deponed that he threatned them with imprisonment in case they refused to Swear.

4. *His Scandalous and Impudent Railing from the Pulpit upon particular persons of Highest note, as the late Duke of* Monmouth, *the late Earl of* Argyle, *and the Earle of* Melvill *his Majesties High Commissioner and Others.*

Seven or Eight Witnesses agree in this, that from the Pulpit in the year Eighty three Mr. *Alexander Heriot* Railed against *Monmouth*, *Argyle*, and *Melvil*, calling one of them a Bloody *Absalon*, another Hereditary Traitor, another Rebel and Disturbers of our *Israel* and other stuff to this purpose.

5. *His rejoycing and shewing evidences of cheerfulness at the News of the Defeat of the Kings Army at Gillicrankie.*

Three Witnesses being examined concurred in this that Mr. *Alexander Heriot*, at the News of the Defeat of the Kings Forces at *Gillicrankie*, shewed signal evidences of his Joy and Satisfaction, and caused give the Reporter thereof a Drink. And shall he that is Glad at Calamities pass unpunished.

6. *That in his seeming Observance of the late publick Thanksgiving for the Preservation of their Majesties Persons and Government, the Defeat of the* Irish *Armies, and discovery of the late Plot he, made no mention of any of them, either in Praying or Preaching, whereby there was plain dissembling with God and Man.*

Three Witnesses having deponed concurr in this, that on the late publick Thanksgiving, enjoyned by Authority Mr. *Alexander Heriot* did neither

neither by any preliminary Discourse, nor in Sermon or Prayer, make any mention of the Defeat of the *Irish* Armie, the preservation of their Majesties Persons and Government nor of the discovery of the late Bloody Plot.

7. *His persecuting of Sober People in his paroch for their Presbyterian Principles* Four Witnesses agree in this, that by Mr. *Aelxander Heriots* Instigation and influence upon the Magistrates, some were Fyned and forced to fly the place for Baptizing their Children with Presbyterian Ministers.

8. *Negligence of Discipline in the case of grose Scandals. And particularlie in the case of* Thomas Finlaw *and* Janet Somervell *who lived together as married Persons: Notwithstanding it was notourly known that the said* Janets *first Husband was alive.*

Three Witnesses concurr that *William Gardiner, William Sudler,* and *John Dicksone* were guilty of Fornication and yet had from Mr. *Alexander Heriot* the benifite of a sealing Ordinance without satisfaction previously required. And as to the particular instance above mentioned, four or five Witnesses deponed, that they saw *Janet Somervels* first Husband after she was Married to *Thomas Finlaw.* It was also deponed, not only that this was notourly known, but also came to Mr. *Heriots* Ears, and one, at least, of his Elders deponed that he knew no diligence done for censuring either of them. The same was declared by the parties themselves.

There were other two Articles proven in the proces which being of lesser weight, for Brevities sake shall be omitted.

When the Presbytery and assistants had seriously, and a long time deliberated upon this whole proces, that they might not proceed rashly in a matter of moment they delayed to pass any Sentence till another day.

Upon the twelvth day of *September.* The Presbytery and assistants did again revise, cognosce and judge upon the whole proces, and first they judged Mr. *Alexander Heriot* upon the account of his declinator and rest of his conduct to be contumacious, and then having deliberately advised the articles of the Lybel with the depositions adduced to instruct the same, they concluded him to be censurable, and therefore did Suspend him from all Ministerial function, and referred him for further Censure to the next enshewing General Assemblie, or next Synod of *Louthian* and *Tweddal*, if either of these should judge him farther Censurable. And so tender were they of Mr. *Alexander Heriot*, that notwithstanding of his declinator, yet before sentence past they called him, and also sent to his House, to hear if he had ought to alledge why sentence should not be pronounced: But

he

he did not Compear. And therefore after Sentence an Extract thereof was presently sent to him. And upon the whole I darre appeal to any Person whom prejudice hath not Blinded, whither or not the Presbytery of *Dalkeith* and Assistants joyned with them, have not proceeded upon a relevant Lybel and plenary Probation: And also with that Candor, Singleness, and deliberation, as becomes in a Case of such Weight.

But to proceed, Mr. *Alexander Heriot*, being cited, after six free Dayes to compeare before the General Assembly, and accordingly upon the 3*d*, of *November*, 1690. He compeared and declared he past from his Declinature and submitted his Case intirely to the General Assembly: Who thereupon did referr the same to the cognition and decision of the Synod of *Lothian*, and *Tweddale*, as their Act Dated the said third of *November* bears. Upon the day of *December*, immediatly following Mr. *Alexander Heriot* being called, compeared before the Synod, and not only before Sentence past, but even before the process was considered, made an appeal from the Synod to the next General Assembly. But notwithstanding thereof, according to the trust committed unto them by the Assembly, the Synod considered and revised the whole process, and pronounced Sentence of Deposition against Mr. *Alexander Heriot*, and appointed one of the Members of the Presbytery of *Dalkeith*, to intimate the said Sentence the next Lords day, and to declare the Church of *Dalkeith* Vacant.

After this the Presbytery of *Dalkeith* finding the Church of *Dalkeith* Vacant; in order to the legal settlement thereof, proceeded to the Election of a Session after this manner. They appointed one of their own number to Preach there upon a Lords day, and after the Sermon publickly to desire the *Heritors* and heads of Families to meet upon a convenient day (which was also specially condescended upon) to make a list of Persons fit to be Elders and Deacons in that Paroch. Which list being brought to the *Presbytery* and the *Persons* Nominate being tryed, an edict for them was publickly served in the Church of *Dalkeith*, and being returned to the *Presbytery*, no objection was alledged against any Person named in the list, only a Protestation was made in behalf of Mr, *Alexander Heriot*, against the Election of any Eldership there, upon pretence of his standing Relation to that Congregation. But the ground of that Protestation being null, the Presbytery did forthwith appoint one of their number upon a Lords day following, to preach in the Church of *Dalkeith*, and with the usual Solemnities to ordain the Persons named in the List, to be Elders and Deacons there: Which was accordingly done upon the Eight of *February*, of this present year of God, 1691.

This (it seems) did alarum Mr, *Alexander Heriot*: For shortly after

some

ſome Perſon (*I* ſhall not ſay, *ex face Populi*: But who ſeems to be neither Divine nor *Lawyer*) hath had the imprudence, or rather the impudence, to cauſe Print Reaſons of *Mr. Heriots* appeal from the Synod and ſome Notes in *Relation* to the Presbyteries procedure againſt him, whereby his caſe is moſt groſly miſrepreſented: Yet thereupon does he Petition their *Majeſties privy Council*, as the Judges competent, to repone him to the exerciſe of his Miniſtry and to interpoſe their Authority in diſcharging to call any Miniſter to the Church of *Dalkeith*. But *the Right Honourable the Lords of their Majeſties Privy Council*, knowing their duty better then Mr. *Heriot*, or his Advocates can inform them. And conſidering the extent of the power belonging to the civil Magiſtrate in ſuch caſes, did by their Act dated the 17. day of *March*, 1691, (contrary to Mr, *Heriots* expectation) only recommend to the Presbytery of *Dalkeith*, Synod of *Lothian* and next General Aſſembly reſpective, before whom the proceſs and Sentence of depoſition was led and pronounced againſt the ſaid Mr. *Heriot*, to reviſe and reconſider the ſame, and to do all Juſtice thereupon to him according to *Law*. And to have due regard, how, and in what manner the Church of *Dalkeith*, ſhould be legally provided of a Miniſter.

Now Mr, *Herriot*, having miſſed the mark he aimed at by this arrow dipt in Poyſon, and reſolving to trample upon all Government Civil and Eccleſiaſtick, not only continues to dwell ſtill in the manſs whereto now he hath no real right, but in the hight of contempt, hath therein erected a meeting-houſe, where he exerciſes all parts of the Miniſterial function, to the great diſturbance, not only of the Town of *Dalkeith*, but alſo of the whole Countrey round about.

Conform unto the Interloquitor of the Privy Council, and in compliyance therewith, the Synod of *Lothian* and *Tweddale*, in the beginning of *May*, did again diligently peruſe the whole proceſs of Mr. *Alexander Heriot*, reconſidered the Probation. And having reviſed the ſame publickly, found no ground to make any alteration in the former Sentence, but did by an unanimous Vote, adhere to and ratify the ſame; and appointed a Miniſter of their number to intimate their adherence to, and ratification of it, in the Pulpit of *Dalkeith*. And appointed the Presbytery of *Dalkeith*, to have ſpecial regard to the Paroch of *Dalkeith*, and to plant the ſame with their firſt Conveniency.

Upon the eight of *June* a Gentleman preſented to the Presbytery a Letter from my Lord *Raith*. dated at *Monimeal* 30. *May* 1691. And directed to the *Moderator* of the *Presbytery*, to be communicated to the *Presbytery*, and parochin of *Dalkeith*, bearing that the *Dutches of Buccleuch* (ſince the Church of *Dalkeith* is Vacant) recommends Mr. *William Mein* to be Miniſter of

Dal-

Dalkeith, and gives her Graces consent to him to be admitted there. Herewith joyned an Elder of *Dalkeith*, shewing that the Session there inclined to choose Mr. *William Mein* for their Ministers, whereupon the Presbytery appointed one of their number to goe to *Dalkeith*, and after due intimation given to the Heretours and Elders to meet upon a convenient day, to meet with them and according to order to preside in the Election, and Call, of a Minister. At the next Dyet of the Presbytery, the Brother reported that according to appointment he had seen the plurality of the Heretours and all the Elders of the Parish of *Dalkeith* subscribe a Call to Mr *William Meine*. And withall that some of the Heretores and others came in, and Subscribed a Paper which they said was a Call to Mr. *James Lundie* Minister at *North-Leith* to be their Minister, in the mean time protesting that it was without prejudice to Mr. *Alexander Heriot* his Right, which protestation made him conclude that they were not in earnest, and therefore to take no notice of what they did. After this report appeared two of the Ruling Elders of the Parish of *Dalkeith*, with a full Commission presenting a Call to Mr. *William Mein* subscribed, attested, and duly endorsed upon the back, and supplicating the *Presbytery* to prosecute the said Call with all expedition. Appeared also two Gentlemen or three, from the Parish of *Dalkeith* with some Papers, alledging they had a Call to Mr. *Lundie*. But being demanded if they had any Commission, plainly answered they had none, Wherefore the Presbytery finding that they pretended to represent a *Community*, and yet had no Commission to negotiate in their name, thought it not fit to enter upon the cause with them. And therefore finding no competition in this pretended Call, judged themselves oblidged to prosecute the Call given to Mr. *William Mein*. And to that effect appointed two or three of their number, with some of the Session of *Dalkeith* to go, and in their name, and in name of the said Session, to tender the Call to the said Mr. *William Mein*, and one of them to Preach and serve Mr. *Meins* edict at the Kirk of *Dalkeith* next Sabbath, being the 21. of *June*. When the execution of the Edict was returned. There appeared two or three Persons and gave in objections against Mr. *Mein* his being Minister of *Dalkeith:* appeared also one *Mungo Strachan*, and in Mr. *Heriots* name protested against both the Calls given to Mr. *Mein*, and *Mr. Lundie*; when the Presbytery had duly considered the objections they answered them as follows.

OBJECTIONS, by the Heretors and Elders of *Dalkeith*, againſt the Call given to Mr. *William Mein*, to be Miniſter at *Dalkeith*, and proteſtation, and appeal thereupon.

FIrſt the ſaid Call is null, becauſe it is given by ſome Perſons as Elders, and Deacons, who are neither Elders nor Deacons, for the Kirk-Seſſion was not diſolved by the pretended Depoſition of Mr. Alexander Heriot *the Miniſter. But the ſaid Seſſion ſtands and continues while a Miniſter be ſettled in the Kirk, and until the Miniſter and* Seſſion *choiſe a new one; and as there was no ſettled Miniſter at this pretended Election, ſo there was none of the* Seſſion *thereat, but two Perſons, and the reſt of the Electors were for the moſt part of the meaneſt of the People.*

2. *Although the Seſſion had been Lawfully Elected and conſtitute as it is not, yet the Call, is null in ſo far as it is given by Deacons, for by the Act of Parliament the Right and priviledge of calling of Miniſters is given to Heretors and Elders, and not to Deacons.*

3. *No reſpect can be had to the ſaid Call, in ſo far as it proceeds from many Perſons, who are neither Heretors nor Elders. For* 1ſt. *Although the Act of Parliament require the approbation of the* Parochiners *to the Call given by the Heretors and Elders, yet it does not give to the Pariſhiners a Right and Priviledge of Calling. But incaſe of the Pariſhiners their not approbation of the Call given by the Heretors and Elders, In that caſe the Heretors and Elders, are to call another Preſon, ſo that this Call: In ſo fare as it is given by* Parochiners *it is not to be reſpected,* 2dly, *The ſaid Call and Approbation thereof is null, in ſo far as it is given by Tutors and Curators of Minors, at leaſt by Curators without the Minors, whom they could only Authorize therein, or by Perſons as Tutors and Curators, who have not accepted theſe Offices upon them, or by Servants, or by Women, becauſe that by the Act of Parliament, as none of thoſe Perſons has the Right and Priviledge to call a Miniſter; So it requires not their Approbation to the ſaid* Call.

4. *And as the forſaid Call given to Mr.* Mein. *is a Null* Call *for the reaſons forſaids, ſo likewiſe it cannot be admitted in competition with the* Call *given to Mr.* James Lundie Miniſter *at* North-Leith *for the Reaſons following.*

1, *Becauſe the call given to* Mr. Lundie *is by the far greateſt and beſt part of the Heretors and* Elders, *and which is likwiſe approven by the far greateſt and beſt part of the reſt of the Houſholders, to which likwiſe the approbation of the far greateſt number of the Servants and Women in the* Paroch *can be had, if it were neceſſary whereas the call given to* Mr. Meen *is by very few of the Heretors and Elders and few of thoſe of any conſideration, and by the other perſons foreſaids whi are*

like-

likewise in a mean condition, and has not the right and priviledge to Call. 2. Mr. Lundie, *was formerly Minister at* Dalkeith, *a Person above all exception, and eminent in Learning, Ability in Preaching, Piety, Charity and in diligence in all the parts of the Ministerial Function, and of singular and exemplar Life and Conversation, whom the Heretor, Elders, and Parishoners of* Dalkeith *know, and by whom they have been greatly edified, whereas* Mr. Mein, *Is not known to them, and is of meaner Gifts and Abilities and who was rejected and refused by other obscure Parishes. And by whom they cannot be edified, so that he ought not to be imposed and intruded upon them, which will Infallibly prove as incomfortable to him, as troublesome to them.*

And therefore the Heretors and Elders, who hat called, Mr. Lundie *protests as formerly against the foresaid unlawful Call, given to the said* Mr. William Mein, *and against the Presbyteries proceedings upon the said Call and appeals as formerly from the Presbyterie to the next Synod and to their Majesties, and Lords of their Majesties Privy Council for justice and relief thereanent in the mean time.*

To the first it was Answered that the *Presbytery* is satisfied as to the Legality of the Election of the Eldership, and that they own no Eldership there, but that which was erected by them. And that because the Act of Parliament restoring Presbytery, did put the Government in their hands, and such as should be received by them, and that there is no needof of a setled Minister in order to the Election of an Eldership.

To the second it was answered that the subscriptions of Deacons is only cumulative, and *ex abundanti*, they subscribing only as Consenters. Albeit the calling of a Minister be lodged in the Heretors and Elders, yet no Law inhibits other parishoners to testify their approbation of the thing by their manual subscriptions to the Call.

To the 3, which hath two Branches, it was answered and 1st To the first Branch as was above answered to the 2d Objection. Moreover it were no solecism tho' all the heads of Families within the Parish had subscribed. 2. To the other Branch, it were tedious and would prove unnecesary to canvass every individual subscription, but the Presbytery has done nothing in this case, but what the Law allows and is commonly practised.

To the *4th* wherein a competition is alledged to be between the Call given to Mr. *William Mein* and another given to Mr. *James Lundie*, its answered there is no such competition, there being no Legal Call at all to Mr. *Lundie*, as appears from what is above mentioned. And it may be thought Strange why Gentlemen who (its hoped) doe value both their own, and Mr. Lundie's credit doe borrow his name to a mock Call, and urge it in a matter so serious and weighty: For whatever Strangers not knowing the

the caſe may be made to believe: Yet the Presbytery of *Dalkeith* know That the very Gentlemen that preſented this alledged Call, did before them judicially confeſs that there only deſign was but to prevent the *jus Devolutionis*. But to come to the Reaſons alledging Mr. *Lundie*'s Call to be preferable to the other. 1. To the firſt its anſwered, that all the Elders ſubſcribe Mr. *Meins* Call, and none Mr. *Lundie*'s, and that the Presbytery underſtands Mr. *Meins* Call to be ſubſcribed by the moſt conſiderable part of the Heretours, eſpecially the Dutches of *Buccleuch*, who is the cheif Heretour, having given conſent to it by her Grace's Honourable Commiſſioners. To the 2*d*. Its anſwered 1. That whatever relation Mr. *Lundie* might have had to the Parish of *Dalkeith* formerly, yet he hath none at preſent. 2. That tho' the Presbytery thinks it not fit to compare Mr. *Meins*, and Mr. *Lundie*'s Gifts or other endowments together, nor yet to flater the one and derogat from the other: Yet they are ſatisfied with the Miniſterial qualifications of Mr. *William* Mein, as alſo with his practice, Converſation, and fitneſs for the Parish of *Dalkeith*. And the Presbytery makes no queſtion, but through the Bleſſing of God upon his Labours he may prove an uſeful Inſtrument in that Corner of our Lords Vinyeard. 3. Its a moſt calumnious untruth that ever Mr. *William* Mein was refuſed or rejected by any Parish, whether famous or obſcure. Whoſo are acquaint with him know that he is of another Spirit than to thruſt Himſelf upon a People that are not ſueing for Him. Neither is the Presbytery reſolved to intrude him upon the Parish of *Dalkeith*, but fairly to ſettle him there, upon a Legal Call from the plurality of the Heretours and all the Elders. And as no faithful Miniſter of Chriſt can warrantably expect immunity from troubles, So its hoped God ſhall ſupport Mr. *Mein* under what he may meet with.

The Presbytery having conſidered the Objections and found them by the Anſweres given to be non relevant and laying no weight on them, nor upon the proteſtation founded thereon, did without farther *Demurr* judicially tender the Call to Mr. *William Mein*, and upon his modeſt Submiſſion, appointed the day whereon he might be addmitted. And accordingly upon the Seventh of *July* 1691. After a Sermon Preached with Reference to the occaſion, Mr. *William Mein* was admitted Miniſter of the Goſpel at *Dalkeith*, in the Kirk of *Dalkeith*, The Presbytery having given him the Right hand of Fellowſhip, and the Heretours and Elders having received him as their Miniſter.

Its true the two Perſons above mentioned, and *Mungo Strachan* appeared upon this occaſion alſo, and renewed their reſpective proteſtations, but the Presbytery having anſwered them formerly, proceeded now notwithſtanding thereof.

An Answer to Mr. Heriots *Information.*

NOw for Answer to the Paper called *Information for Mr.* Alexander Heriot, wherein his Cale and Cause is grosly mis-represented, we say, with the wise man, *He that is first in his own Cause seemeth just, but his neighbour cometh and searcheth him*, and then there is a further discovery of Truth and Equity: and therefore although it would be both needless and nauseous to give a particular and distinct Answer to every thing in that Printed Information, yet for satisfaction of some that may be ignorant, or mis-informed, and so puzled with many positive Assertions of great untruths, lies and calumnies therein contained, it is thought fit at present to remark these few things following in order, according to the Method of the foresaid Information.

1. He calls the Synod of the three *Louthians* and *Tweddale* the Synod of *Mid-Louthian* only: Whereby in the very entry and Tittle of his Paper, he bewrayes no small ignorance of the constitution and extent of the Judicatory from which he did appeal. It would seem that he is not well acquaint even with Names and Things, that he might easily have known long ago, and are of his concernment, to know. But this is a mistake of so small consequence, that it would not have been worth the while to take any notice thereof, were it not for the presage of it. *Casputare in limine mali ominis est.*

2. In his Information it self then, one of the first things remarkable is the account he gives of the *Presbytery of Dalkeith's* procedure against him: wherein among other things he saith that the *Presbytery* of *Dalkeith* refused to condescend upon an Accuser or *Pursuer*, or to allow any under that Character to subscribe the Lybel given against him. To which it is Answered. 1. That he Called for no Accusers when he compeared personally before the Presbytery. 2. How consonant soever such methods of producing Accusers, may be to processes before Civil Courts (where also in several cases it is not required) yet the said *Presbytery* did, and still do judge that the formal appearing of Accusers as such in ordinary cases of Scandal, to be some way unbeseeming Church-Judicatories, who are called out of zeal to the Glory of Christ, to inquire into the Scandals that fall out, within the bounds of their inspection, even although their should be no Complainer, as is manifest, *Rev.* 2. Whereas admitting of Accusers commonly tends not to edification (the only end of *Church Censures*, 2 *Cor.* 13. 10.) But to the begetting and cherishing litigious debates, rancour and malice: As hath been

too

too manifeſt in ſome late caſes. 3. The Presbytery of *Dalkeith* have for their Vindication herein, both the ancient and uſual practice of the Judicatories of this Church, and the ſentiments of our worthy Predeceſſors: Witneſs *Ames de conſcien. Lib. 5 Cap. 54. Qu. 4.* And Mr. *Durham* in his Treatile Of Scandal, *part. 2. Chap. 10.* Yet 4. notwithſtanding of what was ſaid, there were two or three perſons ready to have ſubſcribed his Lybel, and to have appeared as his Accuſers, if need had been: But Mr. *Heriot* pretended this by his withdrawing, and obſtinate declining of the Presbytery, and refuſing to appear before them: So that they could not produce his Accuſers before him, when he would not himſelf compear before them, ſo that his clamour about this, is groundleſs and unjuſt.

3. He ſaith that the Heretours and Parishoners of *Dalkeith*, did by a write under their hands diſclaim and diſown the Lybel, except *Alexander Calderwood*, and a few others *ex face populi. Anſ.* 1. It is a notorious falshood. For Mr. *Heriots* party gave no ſuch writing under their hands to the Presbytery. 2 Though it were true, yet it makes nothing for his Vindication, nor againſt the truth of the Lybel given in againſt him, which he knows may be true, and well proven by plenty of Witneſſes; although as many thouſands as ſingle Perſons had diſowned it. Yet for further clearing of this particular, let it be conſidered, 1. That Mr. *Mark Lermont* with a confuſed Rable following him appeared, and by word of mouth diſowned the Lybel: Which ſhewed little either prudence or Piety, whither the ſaid Lybel were true or falſe: For (beſides that they knew not how it would be proven) if it were true, then their diſowning it, kithed little reſpect to their own ſpiritual thriving: But if falſe, then they ought rather to have furniſhed Mr. *Heriot* with means to diſprove it. Yet to do them Juſtice, they appeared not with Mr. *Heriot*, but a fortnight after, they rushed in before the Presbytery when Mr. *James Hamiltoun* preſented Mr. *Heriots* Declinature, And as they diſowned the Lybel, ſo they diſowned the Declinature. 2. I know no Heretors that appeared to diſown that Lybel except Mr. *Mark Lermont* be counted one before his Fathers Death. 3. The Parishoners who compeared were but a ſmall part of the Parish, and theſe alſo diſaffected to the Government Civil and Eccleſiaſtick; and ſome of them Drunk, Tumultuous and Outragious: So that Mr. *Heriot* has more cauſe to be aſhamed, then to boaſt of their appearance and Teſtimony for him; for commonly perſons of that ſort give their Teſtimony to ſuch as themſelves. 4. Their diſowning the Lybel before it was put to probation and trial, could not ſignify more, than either that they had no hand in giving it in, which may be true enough; or that they were not willing that Mr. *Heriot* ſhould be called in queſtion for any miſdemeanors

what

whatsoever, and how far this may conduce for Mr *Heriots* Vindication, who can tell? 5. He alledges that only *Alexander Calderwood* and a few others owned it, and afterwards that *Alexander Calderwood* was the only Informer, thereby excluding these others seemingly: Which as it is both false and not coherent in its self; so if it were true, it would make nothing for him: For if an Information or Lybel against a man be found relevant and true, the paucity of these that own it, ought not to hinder the guilty and Scandalous sinner from meeting with deserved Censure. He alledges that the Presbytery had no other Informer against him, but only *Alexander Calderwood.* But though this had been true (as it is not) yet had the *Presbytery* been oblidged to receive a complaint from him alone, and to put the same to Trial: For if no complaint against a Minister could be admitted, except the plurality of his *Parish* did prosecute the same, the Church would quickly be pestered with unfaithfull Teachers; because the Gospel affords much Ground to believe, that the wicked and unsound *Professors* will in number always exceed the truly Godly: So that if a corrupt Pastor should get the corrupt part of his *Parish* (which will easily be found the greatest) to befriend him, then there would be no access to censure him: And how absurd, and of what bad consequence this would be, is obvious to any judicious Christian to consider: Besides, it may here be remembred that Mr. *Heriot* is of another Judgement than the Apostle *Paul* about this Question; for the Apostle 1. *Tim.* 5. 19. Requires but two or three Witnesses in order to the receiving an accusation against an Elder: But Mr. *Heriot* requires the plurality of the Parish in order to it; and quarrels with the Presbytery of *Dalkeith* for receiving an Accusation against him from a few, as he alledges. 6. Whereas he would make the World believe that the Heretors and Parishoners are very unanimously for him; let it be considered, that the Cheif Heretor is not concerned, and that the Chief of the Heretors he boasts of, has but a small early rent in the *Parish*, besides his dwelling house; and the rest of his Heretours are yet more inconsiderable that way. 7. He saith, that these others who appeared against him, were *ex fæce populi*: Why? Because perhaps they are generally of the poorer sort: Which though it were true, is no better help to his Cause, than to bewray in him a prophane Spirit, of the same stamp with these who counted the Apostles of Christ (because poor unlearned Men) to be the Filth of the World, and the off-scouring of all things 1. *Cor.* 4. 13. And it seems he has not well read, nor understood, *Jam.* 2, 4. 5. Besides it is well known, that not a few of these he speaks so contemptibly and basely of, yet for their temporal interest may vye with Mr. *Heriots* Heretors: and for their sense of Religon, Fear of God, and morality of Life, are very far

far above his *flos populi*; So that if it were known to the World, who they are whom Mr *Heriot* calls the dregs and off-scourings of the People, and who they are whom he reckons the choice of the *People*, it would be evident what complection of Spirit he is of: And is it not a great pity and loss to the Church, that such a Minister as counts and calls the serious *Praying* Folks in his *Parish*, the dregs of his *People*, should yet be suspended by a *Presbytery*, and deposed by a *Synod*? *Hinc ille Lachryma.* Finally, if Mr. *Heriots* memory had not been wilfully bad, he might easily have remembered that these of whom he here speaks so slightingly for their external meanness, did yet in his own time and under his view, for the space of three years maintain a Minister and a *Precenter*, by their own voluntary Liberality: And therefore they cannot be such a contemptible company, as *Mr. Heriot* represents them to be.

4. He saith that when *Alexander Calderwood* was charged with inventing and reporting most false calumnies against him, he replyed, *Be they true or false, I have taken two hundered Persons from his Communion.* To this imputation *Alexander Calderwood* Answers, that it is most calumnious, and that Mr. *Heriot* can never prove it. Nor do I see how the foisting in of this Story among his weak defences, serves for any other purpose, than to tell the World that Mr. *Heriot* is a man that loves to tell an ill Tale (true or false) of any that bear the name of Presbyterian, even though it be nothing to his present purpose.

5. Another thing affirmed by Mr. *Heriot* is that he did except against *Alexander Calderwood* as a party, and yet he was permitted to sit in the quality of an Elder, as one of his Judges in the Presbytery; *Ans.* This is like the rest of his Calumnies: For, 1. Neither did Mr. *Heriot* at his own personal compearance, nor afterward in his Declinature, make any exception against *Alexander Calderwood*: Though indeed Mr. *Hamiltoun* afterwards did require the Presbytery to remove *Alexander Calderwood.* 2. It is not true that the Presbytery did allow him either to debate or vote in Mr. *Heriots* Case; though they sustained him indeed as a Ruling Elder to judge in other cases: And they yet know no Reason why he ought to have been removed; and so hindered from giving his advice and assistance in other cales and causes: Had the Presbytery no other cause in hand but Mr. *Heriots*? And must Mr. *Calderwoods* Legal shewing his dissatisfaction with Mr. *Heriots* Scandalous carriage, render him uncapable of sitting in the *Presbytery*. 3. When Mr. *Hamiltoun*, Mr. *Heriots* Procurator desired that *Alexander Calderwood* should be removed, it was refused by the *Presbytery*, not because he was sustained Judge in this cale, but because (as the Presbytery then expressly told Mr. *Hamiltoun*) that seing Mr. *Heriot* had declined them, they could not debate with him *in Causa*. 6. An-

6. Another falshood in Mr. *Heriots* narrative, is, that *Alexander Calderwood* informed, tampered with, and threatned some of the Witnesses. *Anſ.* It is sure that before the Presbytery there appeared not the least shadow of any such thing. And it may be remarked here, that though before the *Synod*, Mr. *Heriot* said that *Alexander Calderwood* suborned the Witnesses; yet now in his Printed Paper, he alters and mitigates his Stile (having some wit in his anger) and forbears the word *subornsng*, lest he should be made to answer for it before a Criminal Judge: Therefore he now speaks more softly, though still falsly.

7. The great Accuser of the Brethren himself could invent nothing more maliciously false than what he alledges against the *Presbytery* in their Examination of the Witnesses: For greater Candor could scarce have been than what was used therein. None of the Witnesses were refused or hindered to see or read their Depositions: Yea, none were suffered to subscribe their Depositions, till they heard them distinctly Read, and were asked again calmly, if they had freedom to subscribe the same: None were interrupted, but when through simplicity or worse, they spoke besides the purpose: And it was necessary to put them to Categorick Answers to the Interogatories proposed, and not to suffer them to speak non-sense or impertinencies: and its impossible that any Court can either maintain their Authority, or expede their business, if all who come before them be permitted to utter what ever they list. There was not the least appearance of over-awing any, except by the Oath of God, which they were under; which was especially inculcated when they refused to depone and Answer, as some did: And one of the Witnesses did, according to the Discretion he had, desire eight days time to advise, whether he should subscribe what he had Deponed upon his Oath, or not. So that Mr. *Heriots* account of the Examination of the Witnesses is wholly false, and maliciously injurious.

8. Mr. *Heriot* sayes that there are several Articles of the Lybel, which are not upon these heads to which the Trial of the *Regular Clergy* (as he Irregularly and Popishly Stiles his Prelatick Brethren) is restricted by Act of *Parliament*, and which are in themselves *alterius fori*. *Anſ.* This also is false: For whoso shall read Mr. *Heriots* Lybel, shall not find one Article in it, that is not easily reducible, either to Scandal or negligence, and therefore to the heads whereupon the trial of the late Conformists is (according to the Act of *Parliament*) to proceed: And though some of these things libelled may be found in some respects to be *alterius fori*, yet it doth not therefore follow that Ecclesiastical Courts may not meddle with these things at all. I confess, his disaffectedness to their Majesties Government,

deserves a chastisment from Civil Courts; yet in as much as it vented it self even in the exercise of his Ministerial function, it was the more Scandalous, and the ground of a Church-censure: And it is well known that one and the same miscarriage may be judged both by Civil and Ecclesiastick Courts, and yet both of them keep within their own proper and distinct sphere: but Mr. *Heriot* will not know the distinction of these Courts, but fain would confound and embroil all; as appears both by his insolent practice, and by the close of his Information, as we may afterwards see.

9. He complains of an additional Lybel, and that he got no citation to Answer to it, nor Copy of it, and exclaimes wickedly against the Presbytery for this and their procedure thereupon, and in the bitterness of his Spirit dictates to the World his Censure of it in these Words, *than all which* (saith he) *there can be nothing in Judicial procedures, more partial, pernicious and unjust.* *Ans* Herein he shews more ignorance and malice than either wit or honesty: And if he would be sober and calmly compose himself to hear truth and reason, I would tell him that he was still under citation to the Presbytery, till he declined them: and after that, to what purpose should he have been cited to appear before them whose Authority he had simply declined. Besides he may know (if he please) that there was no Addition made to the Lybel after that Diet of the Presbytery unto which he was cited *apud Acta* by the Moderator in face of the Presbytery: And if he had appeared at that Diet to which he was cited, he had got the Copy of that Additional Lybel (as well as he got of the former) and time also to prepare and give in his Answers to it: So that he has no reason to complain of the want of a Copy of any Addition that then was made: for he would no more hear from, nor meddle with the *Presbytery*, but declined them before they did any thing in his affair that he could or did complain of; as appears by the Declinature it self.

10. He saith with an admirable either ignorance or impudence, that he appealed from the *Presbytery* to the General Assembly. Doubtless the mans own Conscience cannot but tell him, that there was not the least hint of any such thing. There was indeed a pretended Factory to one Mr. *James Hamiltoun* presented to the Presbytery (a true Copy whereof is herewith Printed *supra* in the Narrative) which bears a *Declinature* of the Presbyteries Jurisdiction, but not the least shew of an *Appeal*: So that both malice and weakness appear in his *thus making lies his refuge.* In this his Declinature he would not so much as call them the Presbytery, but in contempt the Ministers met at *Dalkeith*, and disclaimed their Authority as incompetent Judges of him (forsooth) yea expresly denies them to be the Presbyte-

ry,

ry of *Dalkeith*: And thus he did ſtubbornly and proudly trample upon both the conſtitution and Government of this Church, and alſo the Civil Authority of King and Parliament eſtabliſhing it: And for this his Contumacy, the Presbytery might well have forthwith depoſed him, and that by Law, and according to their duty; but to evite the ſhew or appearance and Clamours of Rigidity, they proceeded to the proceſs. It may alſo here be obſerved that in this his declinature, he declines *the Miniſters* he ſhould have added, *and Elders*, if his memory had been good) *as no Presbytery, and that becauſe they could have no Power to Act as a Presbytery till they received it from the General Aſſembly:* Which is ſuch a piece of Non-ſenſe as needs no confutation: For who knows not that Presbyteries are eſtabliſhed by the Law, and General Aſſemblies made up of Delegates from them? Beſides that by this ſort of rare reaſoning, Mr *Heriot* bewrayes both Ignorance and infidelity in the Proteſtant Doctrine about the *Jus Divinum* of Church Government, and the intrinſick power of Miniſters and Elders; as the judicious Reader will eaſiely perceive at the firſt hearing of his Argument. And after all this and much more of arrogant, ſtubborn, and obſtinate carriage towards the Presbytery, was it any wonder that the Presbytery declared him contumacious? had they not great and Juſt cauſe ſo to do? Could they do leſs? Nay let the moſt bigot Prelatiſts, upon a ſuppoſition of the Presbyteries Authority, but conſider Mr. *Alexander Heriots* conduct towards them, and if he be a Perſon of any Ingenuity and Candor we might refer this unto his Determination, whether or not the Presbytery had reaſon to declare the ſaid Mr. *Alexander* contumacious? Was he not evidently, and eminently ſuch? And doth he not ſtill continue and ſhew himſelf more and more ſuch, even to the Superlative degree? Has he not Treated the Synod as Inſolently in his Language as the Presbytery, as appears from his printed Information? doth he not appear to be a ſcornful and Stout hearted Perſon, that is far from righteouſneſs? Doth he not utter vain knowledge, and fill his Belly with the Eaſt Wind?

11. But this vain man proceeds to lye alſo upon the late General Aſſembly, and boldly ſaith, that they found no contumacy in his Appeal. But for *Anſw.* 1. Doth he not know that there was no ſuch thing as an Appeal of his from the Presbytery to the General Aſſembly, and that his appearing before the Aſſembly was upon the Summonds raiſed at the Inſtance of the Presbytery of *Dalkeith*, to which Aſſembly they had referred him? Hath he forgot that he appeared not there to proſecute any appeal (which never was) but to anſwer the Summonds? 2. If there had been any ſuch thing as an appeal of his from the Presbytery to the General Aſſembly, yet it would have been Illegal and Unformal, and alſo unjuſt and unreaſonable, becauſe

of these Rules of the Cannon Laws. 1. *Appellari debet ab Inferiore Judice gradatim (non per Saltum) ad Superiorem.* 2. *Prohibetur Appellatio.* 1. *A regularis Disciplinæ correctione.* 2. *A gravamine futuro.* 3. He speaks as if the Assembly had cognosced upon the Cause: whereas it is well known that the Assembly did not at all enter upon the Cause, but leaving it *intacta & integra*, referred it to the Synod of *Louthian* and *Tweddale*, giving them full power to determine therein as they should find meet. 4. Is it not pleasant here to remember that Mr. *Heriot* when before the General Assembly called his Paper (which he sent in to the Presbytery) his *Declinature*, and passed from it; yet now in this Information he again and again calls it an *Appeal*, and owns and pleads it as such, in his plea against the Presbytery and Synods? How shall we understand these contradictions? Must he, to save others the labour of it, give himself the lye? It would seem that Mr. *Heriot* has had some more ingenuity before the General Assembly, than he has elsewhere and at other times; for that Paper was indeed only a *Declinature*, and he then gave it its true name: neither could he have passed from an Appeal (if any such thing had been) for his so doing would have imported his approbation of the Presbyteries procedure in his affair, and even his passing from his Declinature imported little less. However he should have remembered the known Proverb, that *a Lyer has need of a good Memory.*

12. He injuriously and falsly alledges that the Presbytery founded his contumacy upon his Appeal from them: For its referred to his own Conscience, 1. If ever he appeared before the said Presbytery but once? 2. If he offered directly or indirectly to make any Appeal from the Presbytery at his then compearance? 3. If he did not in his Declinature afterwards retract his first and only compearance, expresly denying that it imported any acknowledgment of, or submission unto the Presbyteries Authority and Jurisdiction? 4. If any commissionated by him appeared before them (while his Process was in Dependence) except once the fore-mentioned Mr. *James Hamiltoun.* 5. If the said Mr. *Hamiltoun* did in his name make any Appeal?

But to undeceive the World, be it known that Mr. *Heriots* being declared Contumacious, was founded, 1. Upon his declining of the Presbytery and Jurisdiction thereof, plainly affirming them not to be the Presbytery of *Dalkeith*, 2. Upon his obstinat refusing to compear before the Presbytery of *Dalkeith* and their Assistants from the adjacent Presbyteries, Authorized by the General Meeting of the Ministers and Elders of this Church, conform to the Act of Parliament, to try Incumbents; For though he appeared once, yet did he pass from the same in his above mentioned

tioned

tioned Declinature. In both which there was manifest contempt not only of the Ecclesiastick Government, but also of the Civil, Establishing the Ecclesiastick; and consequently a valide ground whereupon to declare him Contumacious. It is true, Mr. *Hieriot* did (with more cunning subtilty then conscientious ingenuity) before the General Assembly pass from his foresaid Declinature, (and consequently from his pretended and falsely alledged Appeal to the Assembly: for he had done nothing else that he could call his Appeal: and even this his slight sort of seeming repentance contributs more than he is aware of, to justify the *Presbyteries* having formerly declared him contumanious: For upon the matter, he hereby, before the General Assembly declared himself to have been contumacious, and recanted it: though now again he denies his contumacy, and so recants his recantation, and Repents of his Repentance; and that even while he is going on in a greater contumacy against the Synod.

3. But let us behold yet more of the impudence of this man: he knows and in part acknowledges that the General Assembly referred his Case and Cause untouched unto the Synod of *Louthian* and *Tweddale*; whereby the said Synod had the Assemblies full Power, *quoad hunc effectum* committed unto them, to cognosce upon and determine in his Cause; yet with abundance of confidence, and contrary to all reason and order of Judicatories, this man appeals back again from the said Synod unto the next Lawfull General Assembly: and this also he does, before he did or could understand what would be the Synods Judgment of his Process, even as he served the *Presbytery* with his Declinature: the man is so very quick and foresighty by the help of a guilty Conscience. Perhaps he thinks that his qualifying the next Assembly with the word *Lawfull* gives him a relevancy not to discuss his Appeal before an Assembly constituted according to the present Establishment, but framed after his own corrupted judgment; however, I shall not easily be perswaded that the man who so irregularly and irrationally counter Acts and Rebels against the renewed Sentences of the Inferiot Judicatories, has any purpose to appear and plead such a desperate Cause before the Supreme Judicatory of this Church; yet I deny not, but Mr. *Hieriot* is a very bold man, and may venture upon great and hard matters, of this kind. I must here also crave leave to tell him, that by this his Appealing from the Synod, he has transgressed against several Texts, of his and his Brethrens dearly beloved Canon Law, *ex gr.* 1. *Se Delegatus habens Causæ jurisdictionem subdelegare non debet, nec deservire in hoc Casu, ipse vicibus Judicis Delegantis fungatur, non ad eum videtur spectare facienda procedendi.* 2. *Appellare non potest, qui videtur acquievisse obtentui sententiæ.* and others of the same kind may be added.

14 Now let us consider the Reasons he gives of this his Irregular Appeal from the Synod. The first is that the Petition of the Heretors and People of *Dalkeith* (attesting his faithfulness in the Ministry and his innocency as to the things Lybelled against him, and craving that the depositions of the Witnesses might be made patent) was not suffered to be read in the Synod. *Ans.* The Synod were Authorized by the General Assembly only to review the Process led against Mr. *Heriot* before the Presbytery of *Dalkeith*; and not to enter upon any new Process, or upon Petitions extrinsick to that process: Wherefore also when some of the Parishoners of *Dalkeith* offered a new Additional Lybel against Mr. *Heriot*, the Synod refused to take notice of it; so that the Synod gave equal measure both to his party and to his opposits. 2. It was utterly impertinent for Mr. *Heriots* party, instead of a Petition, to offer to the Synod an attestation of his Innocency; and the Synod acted rationally in slighting such insignificant Testimonials; for there is no guilty person sisted before any judge, who could not procure a company of his own stamp to attest his honesty, and petition for him, if that could avail to hinder the Judges cognoscing upon the Cause, and passing Sentence upon clear evidence: neither would Mr. *Heriot* (I suppose) have uled this unwarry and supitious way of vindicating himself, if he had remembred the old *Scots* Proverb about such Cases. 3. Something of an Answer to this his first Reason may easily be gathered from what is formerly said about some mens verbal Testimony for Mr. *Heriot* and disowning of his Lybel before the Presbytery. *Supra.* §. Of this Answer to the Information. 4. If this Petition he lays so much weight upon, were worth the enquiring after, I suppose sufficient evidences would be found of its being first drawn up betwixt Mr. *Heriot* and his Associats, and then subscriptions gathered through the Town of *Dalkeith*, and even from some persons very young. 5. The Subscribers of the pretended Petition could attest nothing but according to their own knowledge or Judgment (which in some of them at least was not very considerable) and if others of the Parishiners were conscious of Mr. *Heriots* unfaithfulness, it were hard for the former to attest the Negative. All which make it evident that his first Reason of Appeal from the Synod hath no weight, nor relevancy in it, but savours of a bad Cause.

15. His 2*d* Reason of Appeal is because when he craved a Copy of the Additional Lybel, and that the Depositions of the Witnesses might be read before him and made patent to him, yet this was refused by the Synod: and hereupon he huffs and exclaimes, and tells us by guess that this was contrary to Law, and undoubtedly (saith this Dictator) for this Reason, because the probation was weak, and might not abide the light nor Trial; for *Your*

to

tas non quærit angulos. Ans. 1. This is an untruth, for the Synod told him that when they entered upon the Cause, he would be allowed to hear the whole Process and Depositions of the Witnesses, if he would stay: yet he would not stay, but withdrew immediatly after he heard his Lybel read. And it is a hard thing for the Synod to read Depositions before any man who withdraws designedly (as it seems Mr. *Heriot* did) that he may have a lye to spread. For that the Depositions of the Witnesses were read in open Synod, a multitude of Witnesses can testify: if he declined to hear them, who can help that? But from some men we may expect any thing except Candor. 2. As for his want of a Copy of the Additional Lybel, he has himself only to blame, who by his declining of the Presbytery prevented that: for the Presbytery would not have refused him that, nor any other thing reasonable, if he had pleaded *in Causâ* before them: but his deserting the Cause by his Declinature laid no obligation upon the Presbytery to desert and decline themselves, and court him after his having renounced them: upon which considerations the Synod could lay no weight upon his complaint of want of a sight or Copy of the Addition to his Lybel. 3. As for the Act of Parliament for making depositions of Witnesses patent, which he cites both in this and in the former Reason of his Appeal, it is answered, 1. That this Act pertains only to Civil Courts. 2. Whatever that Act of Parliament calls for, it must be understood to be called for, when the Process is first led, and not at any time (even after Sentence is past) that the accused shall please: otherwise there would be a door opened to protract the sitting of Judicatories as long as any party accused shall think fit. Now it is notourly known to Mr. *Heriot* and his Freinds, that his Process was not led before the Presbytery of *Dalkeith* by stealth, without his knowledge, or in a Corner, but in the Church of *Dalkeith* openly; and where Mr. *Heriot* had free access, yea and was summoned *apud Acta* to give in his Answers to his Lybel, to see the Witnesses, to object against them (if he had ought) and to hear their Depositions given; and when this benefit and advantage was obstinatly refused, it is manifest that his design in desiring of the Synod to hear the Depositions of the Witnesses, and to have them made patent, was but to gain time, and to frustrat the Synods procedure, which use is to sit at any time above one week: and this his design was also bewrayed by his wilfull withdrawing from the Synod, after he was allowed to stay and hear the Depositions of the Witnesses read: so that it appears, he was not willing to hear them. Thus the Depositions having been made patent to him (if he had been willing to have heard them) both at the Presbytery of *Dalkeith* and Synod of *Lauthian* and *Tweddale*; I suppose, the Act of Parliament he cites is abundantly satisfied, which doth re-

require only the making, not the keeping of the Depositions of witnesse[s] patent as long as every Tergiversator pleaseth. Besides, he may know that the Law requireth the Testimonies and Depositions of Witnesses to be sealed up, after Sentence is past. 4. As for his Latine which he adds in the close of this reason; as it is impertinently alledged, except he reckon both the Presbytery, and the full and open Synod to be but Corners, so he might have considered that although *Veritas non quærit angulos* (and it hath not sought them in this Case in hand) yet oftentimes *pellitur in angulos*; and he may know and remember by whom it is, and hath been frequently so handled, and this case is also supposed *Isay.* 30. 20.

16. The third Reason of his Appeal from the Synod is that he was informed that the only Article proven against him, was his Dancing about a Bonfire, *October.* 14. 1688. Which he instantly redargued, as a thing that could not be true, because *October.* 14. 1688. Fell upon a Sunday, and all *Dalkeith* knows that they never had any Bonfires upon a Sunday: And yet the Synod had no regard to it, but proceeded to censure him: and here again he insults, rails, and censures both the Witnesses as deponing falsly, and the Synod as proceeding against him, out of prejudice and design, upon whatever was alledged, though without probation, or upon redargued probation: and with his wonted confidence, adds that this is evidently manifest. But he must sober himself and take his Answer 1. Whatever come of this Article about his Dancing, yet there are Articles enough of his Lybel clearly proven, whereupon the Synod might and did proceed to censure him. 2. Even this Article it self was better proven, then he seems to be aware of: For 1. There was no mistake nor disagreeing of the Witnesses as to the thing, and matter of fact deponed against him, but only as to the circumstance of the time: which the Synod did duely consider and weigh: and Lawyers and Canonists do tell us, that this circumstance in it not so material, as that a small difference among Witnesses about it should invalidate their Testimony as to matters of Fact. And Mr. *Herriot* might have kown that Conclusion of Law, *In Scandalo nil refert de die, modo constet de crimine & Corpore delicti.* Therefore also as to the Circumstance of time (year or day) the Presbytery Judged is not so material, as to enquire Critically after it, and some of the Witnesses did not advert to it: But by the 14. of *October*, They meant the day of Rejoycing for K. *James*'s Birth, which was kept yearly during his Reign upon that day: So that Mr. *Herriot* has no reason to Triumph and insult over the witnesses, Presbytery and Synod (as he doth) because of a small and easie mistake of some of the witnesses in such a part of the Circumstance of time. 2. As to the matter of Fact, it was both clearly depo-

deponed by three witnesses, and many others know it, were they willing to tell the Truth: And it can yet be proven by other Witnesses, that upon one of their Bone-Fire-Dayes, he did with Pipe and Drum Dance about a Bonefire, and Drink a Health upon his Knees. 3. Further to cleare this matter, and to stop his mouth as to this, let him know that all the three Witnesses did, and still do agree even as to the time of this his Dancing, that it was on the first of these Solemnities that was kept for the Birth of the late K. *James*, after he became King (which we know was *October*, 14 1685) though this Designation of the yeare was not enquired, nor required of them, when they first deponed; yet they have since declared it before many Witnesses, and also given it under their hands, though some of them did not advert to the year when they were deponing. And this deed of Mr. *Heriots* is notour enough through the Town of *Dalkeith*.

As to what he saith, that this Article of his Dancing about a Bone-fire was, as he is informed, the only Article of his Lybel that was proven. *Answ.* 1. It seems his Informers have been Lyars, like his own Printed Information: They speake, and he writes and Prints, Lies, and who can help it? Their Tongues and Pens are their own. *Qui vult decipi, decipiatur.* But none of the *Presbytery* or Synod, nor any that are acquainted with the Process and Depositions of the Witnesses, have said that this was the only Article of the Lybel proven against him. 2. The *Synod* by reviewing the process found that more Articles than that last mentioned were proven against him: and the preceeding narrative of the process, and of the depositions of the Witnesses, makes it evident, that there were six or seven other material Articles proven against him.

17. *We* come now to his fourth Reason of appealing from the Synod, which has three Branches. The first is that he had appealed from the Presbytery; and that they were his Party. *Answ.* 1. This is false, as has been plainly shewn already: He never appealed from them. 2. If it had been true, what would it be to his purpose here, as a Reason of his Appeal from the Synod. I *have appealed from the Presbytery: Ergo I must Appeal from the Synod too* (and that before the Trial of the Process either in Presbytery or *Synod*) it seems this is a good Argument in Mr. *Heriots* Logicks. 3 If their be any seeming strength in this reasoning of Mr. *Heriots*, I think it mostly is this, that the Presbytery is my declared party, and have Sentenced me, and they belong unto, and are a part of the *Synod*: therefore (saith Mr. *Heriots* arguing) I must Appeal from the Synod also. But if this Argument be good, it will oblidge him to Appeal also from the General Assembly, because both the Presbytery and *Synod* do belong unto it,

and help to make it up by their delegated Commissioners: and who can but see the absurdity of such reasonings?

The 2d Branch of his 4th Reason of his Appeal from the *Synod*, is, that the *Presbytery* of *Dalkeith*, and *Alexander Calderwood* interrupted him, and reasoned against him as Parties, in the face of the *Synod*, and that even in his presence, and before he was removed. *Ans.* He should have said, not the *Presbytery* but *one or two of the Members of the Presbytery* of *Dalkeith*; if he had been willing to speak truth: and then how little will this make against the *Presbytery*? And far less against the *Synod*; and least of all as a Reason of Appeal from the Synod. 2. Was it any wonder that some of the Members of that *Presbytery* spoke some thing then and there, while he was uttering such things as we have heard and answered *supra*. Should his lies make men hold their peace? and when he mocketh, shall no man make him ashamed? Ought he not rather to have thanked them for their Friendly freedom in letting him hear something of his own case that he was ignorant of, and was of his concernment to know, seing they had then the opportunity of his presence, which was a great delicate to them, though he their near neighbour. 3. If they be *Parties* as he calls them, why then should they not be heard in the Cause as well as he? And that whether he be present or not? Had they not Reason to vindicate themselves in his face from the invidious calumnies and manifest lies, which he charged them with. Is he such a pillar in the Church that no Member of a Judicatory may speak in his presence, but all men must give ear, and wait and keep silence at his Counsel, and their tongue cleave to the roof of their mouth? I doubt whether the old Gentleman at *Rome* himself be so arrogant in such Cases? 4. particularly *Alexander Calderwood* (a Ruling Elder and a Member of the *Presbytery* and Synod) had Reason to say something for his own Vindication; because Mr *Heriot* (according to his wonted modesty and veracity) branded him in the face of the Synod with suborning of Witnesses.

The 3d Branch of his 4th Reason of Appeal, is, that notwithstanding of all that he had said, yet the Presbytery of *Dalkeith* and *Alexander Calderwood*, were not removed, but got leave to sit still as his Judges, against all Law and Justice. *Ans.* 1. How did Mr. *Heriot* know this? By some good Informer, no doubt, whom he trusted so far as to Print the story for the Information of the ignorant World. But how could this (if true) be a Reason of his Appeal, which he gave in to the Synod before this alledged crime was committed; although the Copy of the *Reasons* of his Appeal was given in after the Trial and Sentence? By what Spirit could he know, when he Appealed, that the *Synod* would not remove the Presbytery of *Dalkeith*. Is he not a man of a deep reach and great foresight? 2. Briefly, this *Reason*

of

of his Appeal declares Mr. *Heriot* to be a man of superabundant confidence, for he positively Asserts, and that in Print, several Weeks after that multitudes (and perhaps himself) knew it to be a Lie, that the Presbytery of *Dalkeith* were not removed, when the Synod proceeded to judge of his Case and process: For all the Synod, and a great many moe, do know, that when Mr *Heriots* process came to be judged and cognosced upon, not only all the Members of the Presbytery of *Dalkeith* were removed out of the Synod, but also the Ministers who had been delegated from other Presbyteries to assist that of *Dalkeith*, were removed: And this, not because they were suspected as partial and Parties against Mr. *Heriot*, but because their own deed came to be judged by the Synod. But how Mr. *Heriot* could be ignorant of so publick and Notour a matter of Fact, wherein he was so much concerned, seems to have some Mistery in it, not worth the enquiring after. Sure I am, if his patience and humility had prevailed so far as to make him stay but a little while after he gave in his Appeal, he would have seen the Presbytery of *Dalkeith* removed as well as himself: But it seems, Mr. *Heriot* having in haste given in his Appeal, he gets quickly away that he may get leasure to seek, find, or make Reasons for what he had done: And in his search and Consultation about this matter, he found that the not removing of the Prebytery of *Dalkeith*, would be a pretty plausible Reason for his Appeal from the Synod: And therefore he would needs put it in (whether true or false,) among the rest of his Reasons: And it had been a pity we had wanted it.

It may be he, or some of his Advocats will object, that though the Presbytery of *Dalkeith* were at last removed, yet they were not removed together with him, and as soon as he, but had leave to sit still after he was gone out, and to discourse in the Cause. But I Answer, 1. Notwithstanding of this Answer and Objection, yet the falshood of Mr. *Heriot's* reason remains conspicuous, for he plainly saith, that the Presbytery of *Dalkeith* were not removed, but sat to judge him. 2. Mr. *Heriot* removed sooner then he needed or ought to have done, yea when he was desired to stay and hear the process and depositions of the Witnesses Read: And the Presbytery were not bound to follow him close at the Heels, except his steps had been better ordered. 3. There was no reason why the Presbytery of *Dalkeith* should be removed as soon as he. Why should they not be suffered to speake for their own Vindication, as well as he for his? Is their Reputation nothing worth in comparison of his? And why might not their Brethren detain them a little after Mr. *Heriot* had removed, to get some further Information from them about the matter of Fact; and it was but a very little time they stayed after his Removal. 4. Hath not every Judicatory power to examine and

queſtion the ſeveral parties contending before them, either together or apart as they ſee Cauſe? And is it not very needful and neceſſary often times, that the parties be queſtioned and heard apart? *What* need then of this vain Clamour about the *Presbyteries* ſtaying a little behind Mr. *Heriot* in the Synod? If he muſt needs dictate Church-Policy, and Law, he has need firſt to learn them better himſelf. 5. Seing Mr. *Heriot* in his Paper talks ſo big about Law and Juſtice, and ſo often charges both *Presbytery* and Synod with partiality, walking contrary to Law and Reaſon, Unjuſtice, Oppreſſion, and many other hard words, which he heaps up againſt *them*, upon very weake and falſe pretences; I would fain know of him, what kind and meaſure of Juſtice this is, that he metts out unto the *Presbytery* of *Dalkeith*? For in one and the ſame *Reaſon* of his Appeal, he ſtorms and exclaims againſt them for preſuming to ſpeake in his preſence, and debate in his Affair, while he was before the Synod, and calls it *Interrupting* him; and again in the ſame Reaſon, he Storms and quarrels with the Synod, for letting them ſit and ſpeake, when he is removed: And if they may not ſpeake for themſelves, neither when he is preſent, nor when he is not preſent, then let him inform them by his next Information, when they ſhall ſpeak: For till Mr. *Heriot* reconcile theſe contradictions. I cannot gueſs at the Seaſon of their ſpeaking, but can gueſs pretty well by the Language of this his fourth Reaſon, what Juſtice they might expect from him, if he were their Judge.

18. His 5*th* Reaſon of Appeal is that ſeveral members of the *Synod* did interrupt him while he was Vindicating himſelf *&c.* And here again he makes a great noiſe and Clamour about this, as a thing without example in any Judicatory, and as an open diſcovering of their prejudice, deſign and reſolution to proceed againſt him, although without juſt cauſe: And alledges that when he was craving a ſight of the Additional Lybel, and Depoſitions of the Witneſſes, ſome of them cryed out, that *the ſame ſhould not be granted to him*, as if every one of them had had a deciſive Voice. Anſ. 1. He talks here as if he were reproving a Company of School-*Boys*, and like an Infallible Doctor, able to dictate to all the members of *Church* Judicatories how they ſhould behave in Judgment. But withal he ſhewes groſs Ignorance of the Conſtitution of Church Judicatories; for really every member has a deciſive voice *pro tanto* (when it comes to a Vote) and all have equal power both to conſult and determine in the free Courts of Chriſt: And the Deciſion of matters is not referred to a *Prelate* or his deputy; which yet Mr. *Heriot* would like beſt; for he ſpeaks of every members having a deciſive voice, as a great abſurdity: So that by this and other things he ſhewes that he underſtands very little or nothing of Church-power. 2. As to the few words dropt in his preſence by two of the *Members* of the

Pres-

Presbytery of *Dalkeith*, I have answered already. 3. If any other of the Synod presumed to speak a word while he was speaking, or that any of them cried, or yet spake these words *It should not be granted to him*, I do not remember, but doubt it much; and I dare not now take it upon Mr. *Heriots* Printed word, after such proof of its fallibility, even in matters of Fact and Memory: And though the matter alledged be but small, yet I must have another Witness (which hitherto I have not found) before I believe it. 4. Giving, but not granting, that some one or other Member of the Synod contradicted him, or spake something that was not smooth and soft enough for his tender Ears; then upon this supposition, I Answer. 1. As it is no great Crime, so I will not Justify it altogether: It may be passed as a piece of easily pardonable and tolerable precipitancy: And Mr. *Hertot* ought not to have exclaimed against it, at an intollerable rate, as if it were a thing without example in any Judicatory, and to make such a Sputter about it as he does. I can tell him where, and when, there were far worse examples in the most eminent of the Prelatick Judicatories, and far greater disorder and confusion amongst them, notwithstanding of all the power of the Prelate to keep them in order. 2. However it can be but a very weak Reason of Appealing from the Synod, because one or two of its Members spake a word not to his minde, while he was there: must he therefore Appeal from the whole Synod, because one or two of them spake something that did not please him? Is not this to be a delicate Man indeed? 3. If he had spoken and behaved as it became a Man in his Coat and Circumstances, it is like no Man would have so far transgressed the good order and form of Judicatories as to have given him any disturbance: but when a Man comes before such a Judicatory with a mouth full of Lyes, and utters them with confidence, its a hundered to one, but one or other of such a company of knowing Men, will in a plain and clear Case, drop a word before its full season. 4. If any contradicted him, the Reasons by them at that time given for their so doing, should have been set down by Mr. *Heriot* and answered, before he had made this a Reason of an Appeal from the whole Synod. 5. In short, this Reason amounts to this: That he Appealed from the Synod, because while he was before them he got not all the talk and discourse himself alone: and thus *valeat quantum valere potest.*

19. His 6*th* Reason of Appeal from the Synod, is because several Members of the Synod did speak and deal with him to dimitt, or that otherwise they would depose him: and hence he confidently, but rashly and causelessly concludes, that the Synod saw weakness in the grounds they had for deposing him: and here again *pro more suo* he exclaims and rails, Answer. 1. This, if true, yet is not at all a ground of Appeal from the Synod: for if

any of its Members did without Commission from, or knowledge of, the *Synod*, give him such a friendly advice, why should he blame the *Synod* for it, and that so highly as to Appeal from them, as not fit nor worthy to judge of his affair? 2. We may here see what may be expected from such as Mr. *Heriot*, when men deal freely, friendly and ingenuously with them. If Mr. *Heriot* having made his application privatly to some Members of the *Synod*, and solicited them for their advice; or, if some of them did of their own accord and out of a superfluous excess of compassion and charity towards him, offer such an advice; it is most base, uncharitable and unjust for him to construct the worst that malice can devise of their freedom with him: if he had judged candidly of their Counsel, he would have concluded that his Dimission was advised for his relief from the danger and probable hazard of a Sentence of Deposition: But *ill Doers are commonly ill Deemers*. 3. That these Members of the *Synod* said to Mr. *Heriot* that they would depose him, if he dimitted not, I utterly deny to be true: for this was more than they could then well know; whatever probable guess, fear or foresight of it, they might vent to Mr. *Heriot* in an officious friendly communing with him. 4. Whereas Mr. *Heriot* adds for confirmation of this his last Reason of Appeal, these confident and empty words *and there is nothing more certain than that they would never have dealt with him to dimitt, if the probation against him had been good.* I answer, that there is nothing more uncertain; and if I should say, there is nothing more false, I would have come nearer the truth, than he has in this point. 5. To prove what he had last said, he adds these charitable words. *Their malice to the Regular Clergy being such as that they would rather depose them for Immoralities and Errours in Doctrine to publish them, than to suffer them to dimitt* &c. But for answer. 1. It is a malicious Allegeance; and it will be time enough for me or any man else to believe it, when he proves it, which I know is impossible for him to do. 2. When or where were any of these Irregular Men (whom he miscalls *the Regular Clergy*) hindered to dimitt? And who can hinder them to dimitt, if they please? 3. He hints here that when any of them are deposed for immoralities and Errours in Doctrine, It is done out of malice, and consequently not out of Zeal for the Glory of God, and conscience of that great duty of purging the Church of Christ from that great and Soul-destroying plague of a corrupt, Scandalous, Worldly, Carnal, Lifeless Ministry: but there is a day coming when Sinners must give an account of such hard Speeches.

As for what he adds to the sixth Reason of his Appeal (*viz.* attesting his consciousness of his own Innocency, his hoping that God will vindicate him, his renewing his protestation against, and Appeal from the Synod. &c.)

&c. These things might well have been spared, and need no other answer than what is suggested to every mans Conscience, from the General Rules of Christian Charity. Again in the close of that Section, he makes a clamour about the additional Lybel and Depositions of the Witnesses, and dictates several things to the Synod about the business, which he might have spared: the Synod know their duty, and need none of his advice, till he grow wiser: however he needs not fear that the Principal Copies of the Depositions of the Witnesses shall be put out of the way; they will (according to his desire) be preserved and not put out of the way, but produced at the next General Assembly, if need be.

20. To return to his Information; he complains that *notwithstanding of the foresaid Appeals* (he should have said Appeal, for there is but one of them) *the Synod proceeded and deposed him from his Ministry.* Ans. 1. I suppose the man may know that an Appeal is not enough to sist and stop procedure to a Sentence: otherwise Judicatories would never be rid of them, and the most notoriously guilty would not spare to Appeal again and again, if they could thereby gain but a small delay of their Sentence. 2. He might also have known that he had no place to appeal from that Synod, who were in his cause cloathed with the power of the General Assembly, and Acted as their Delegats, as was formerly said. 3. He is grosly mistaken in his saying, that his Appeal does preserve his right, and keep all in *Statu quo*, the time of the Appeal, while it be discust. Indeed, if he had had place to Appeal, and his Appeal had proceeded upon plausible grounds, it would give him access to another hearing of his Cause before the Superior Judicatory to which he had Appealed; but it doth not in the mean time stop all further procedure of the Inferior Judicatory, nor keep all things in reference to him *in Statu quo prius*, as he imagines: Especially when the case in question is sufficiently clear; for then the Inferior Judicatories proceed and Act as they will be answerable to the Superior: But when the Case is Dark, Dubious, and Difficult, it is the wisdome of the Inferior Judicatory to forbear further procedure after an Appeal. Yet if every Appeal were sufficient to sist the further procedure of inferior Judicatories, I am confident that the most Scandalous Person in all *Scotland*, who bear the name of a *Minister* would not be deposed except by a General Assembly.

21. He complains that the Eldership of the Parish was invaded, and some few (severals of them scarce worth to be noticed as Residenters) have usurped the power of Electing Elders, and have elected many moe than the number formerly used, purposely as they think, to make the greater figure, although but of the most inconsiderable of the Paroch; and of design to call, impose and obtrude a Minister upon the rest against their will, contrary to

the Laws of Charity, practices of Christian Churches, and profession of Presbyterians. Answer. 1. How like is this man to him of whom it is said, *As for all his Enemies he puffeth at them*? He still speaks contemptibly of his opposites, and of every thing that doth not please him. *Projecta ampullas & sesquipedalia Verba*: and seing he doth not keep himself *Intra moderamen inculpatæ Tutelæ*, he must blame himself if his Antogonist answer him sometimes according to his Folly. Why should he here and elsewhere through his Paper, Rant and Exclaime against the *Presbyterians*, as if he were still dancing about the Bonefire: For tho' they have been long and often as the Deaf that heard not, and as the Dumb in whose mouth are no reproofs, yet he should not think that it will be alwayes so with them, especially when such as he provoke them sore to retort the bitter verity upon their unwary Adversaries. 2. To come more close to the matter in hand, I say as to the alledged invasion of the Eldership, that where there is no possession there can be no invasion; and Mr. *Heriot* had no Eldership: For the Ruling Elder is a Church-Officer disowned in the *Prelatick* Government, which owns no other Officers than these, Patriarchs, *Primates*, *Metropolitans*, Arch-Bishops, Bishops, Arch-Deans, *Deans*, Prebends, Rectors, Vicars, *Priests*, Deacons, Curats, Church-Wardens, Sides Men, Sextons, and the rest of the Apocriphal Tribe of Mr. *Heriots Regular Clergy*, which he again and again talks of in his Information: And I needed not to have omitted the Pope: for he belongs to the same Tribe; and diverse of the *Prelatick* Protestants do own him as the first Bishop, that is to say, the *Head* of the Clan: And for my part I am content that all go together, as birds of the same Feather. 3. As to the alledged inconsiderableness of these Elders chosen by the more regular party in *Dalkeith*, they are nothing inferior to Mr. *Heriots* nominal Elders, in any thing that is good and considerable: And for their number, they exceed not what they were wont to be in times of *Reformation*. 4. As for their design to obtrude a Minister upon the Parish, contrary to the profession of *Presbyterians*. *&c.* Ans. 1. Is it not pleasant to see Mr. *Heriot* teaching *Presbyterians* their own Principles, and pleading for them? Who can but laugh at it, especially if they consider how ill he has learned either his own or theirs, as we have seen *Supra*? 2. The *Prelatick* principles and practices are in this thing too well know to be so soon forgotten: And Mr. *Heriot* seeming to plead for the power of Ruling Elders, and the liberty of the *Parish* in choosing and calling a Minister, shews him to be no true Prelatist, and consequently neither good Fish nor Flesh. It may be, he will say that this was but his *Argumentum ad Hominem*: But then let him take the Answer here given both *ad hominem & ad rem*; that his Argument is really *ad neutrum*. 3. It is also well

known, that Presbyterians deny no member of the Congregation liberty to object against the Intrant, and if their objections bear weight, and be found just and relevant, they are regarded; if not, rejected: And if this course had been observed all alongst, it may be questioned whether Mr. *Herriot* would have got entrance there 4. It may very easily and rationally be supposed that the present Eldership of *Dalkeith* (with the advice and concurrence of the Presbytery when needed and desired) may have as good skill of choosing a fit Minister, as Mr, *Herriot* and his Party.

22. Mr. *Herriot* (not being content with all the insolent Language and usage he has given to the Church Judicatories) goes yet farther, and ventures upon an untroden Path, that he may rid himself of all Church Judicatories; and by a *Salius* quite *extra oleas* betakes himself to the Lords of their Majesties most Honourable privy Council, and supplicates them (upon the matter) utterly to overthrow the Government of the Church (and the Laws establishing it) and to take upon them to judge and pass definitive Sentences in causes meerly Ecclesiastick: For he and his Party have petitioned their Lordships to discharge the calling of a Minister, while the Appeal be discust, and that in the meantime he may be restored to the exercise of his Ministry, *&c.* Answer 1. By this trick of Mr. *Herriot's* (if it pass into an approven example and precedent) he has cut out abundance of new work for the Honourable Lords of Council, I may say, for all the dayes of the year, not excepting even these dayes which Mr. *Herriot* calls Sundayes: But their Lordships are wise enough to foresee what a vast deal of their precious time it would require, to concert and adjust all these differences that arise through the Kingdome about the settling and unsettling of Ministers: I suppose, their Lordships would soon wearie of it: and truly Mr. *Herriot* in his betaking himself unto their Lordships, seems not to have been sufficiently sensible of the greatness of their work otherwise: but it is like Mr. *Herriot* thinks himself and his concern so considerable, that it deserves time and place amongst the most weighty affairs of the Kingdom; and therefore he puts their Lordships in minde, that he is not only deposed from his Ministry, but *likwise from his Benefice, which is his Livelyhood and Maintenance*: and herein *tandem aliquando* he speaks ingenuously, and brings forth the great *Gravamen* and quarrel, which has occasioned all the clamour and noise we have heard: Oh, it is the grand losse of his Benefice, Livleyhood and Maintinence! *Quis talia fando temperet a Lachrymis?* But who lamented the case when several hundreds of a better character, were for smaller faults turned out of their Livelyhoods? Surely, none of his party. 3. This device of Mr. *Herriots* seems to aim at, and tend unto nothing less (in some mens apprehension at least) than

than the overthrow of the Civil Government it ſelf: for (upon the matter) he ſupplicates the Council to invade the late *Claim of Right*, and bring back again that Supremacy, which the Convention of Eſtates claimed, to be abrogated, as one the grievances of the Nation. And in proſecution of this wicked deſign, he cites an antiquated and abrogated Act of Parliament (of which more anon) and ſuggeſts (falſly and ignorantly) that by the Churches enjoying her wonted and juſt liberties and priviledges, there would *be Regnum in Regno*, and a liberty for the Church to do wrong at her pleaſure without controle. But we may eaſily know whoſe heifer he plougheth with here; this is but a new towt in an old horn; our worthy Anceſtors have ſolidly and learnedly anſwered and anticipated theſe ſuggeſtions: and becauſe their Teſtimony and judgment may perhaps have but little weight with Mr. *Heriot*, I would minde him of the Judgement and practice of ſome of his more ſound and honeſt *Brethren* and Fathers, *viz.* Thoſe ſeven Prelates who were put in the Tower of *London* in the time of the late King *James*, for their Legal adherence unto, and aſſerting of the Churches power and priviledge, and that in a ſtrain far contrary to this of Mr. *Heriots*: and it were eaſie to adduce other inſtances of more learned and ſound men of the prelatical way than Mr. *Heriot*, as to this head of Church-power: But I ſuppoſe it is needleſs: neither are the Honourable Lords of their Majeſties Council ſo eaſily impoſed upon, as to be cheated by ſuch a ſilly Cavil, as this which Mr. *Heriot* here ſuggeſts: for they know that Church-Officers do not deny, nor refuſe, the Allegiance of Subjects, nor does their power reach mens perſons further than what is neceſſary for ſuppreſſing of wickedneſs and Scandal (which Mr. *Heriot* and his Advocats ſeem to reckon a doing of wrong without controle) nor does the Eccleſiaſtick power, claimed and exerced by Presbyterians, reach mens properties any way at all. 4. What if there be the hand of ſome *Joab* in this contrivance of diſturbing the Honourable Privy Council with a buſineſs of this nature? What if ſome greater Head-piece than Mr. *Heriot* has hood-winked him, and put him upon this deſperate Courſe, and that on purpoſe to do ſome greater miſchief to Church and State, than to protect or relieve Mr. *Heriot* from a deſerved Church-Cenſure? There that are wiſer than I, may enquire into this, if they pleaſe. However, when perſons manifeſtly diſaffected to the Civil Government, come to plead for the enlarging and ſtreaching of the limits thereof, ſome of theſe Honourable Governours will be in hazard of remembring the ſaying of the old Trojan Politician *quicquid id eſt, timeo Danaos, & Dona ferentes.*

23. Amongſt others of Mr. *Heriots* falſehoods and calumnies, I ſuppoſe that is one he has in this paragraph I am now anſwering, *viz.* That ſeve-

rals

rals of the Presbyterian Ministers who have seen the Lybels and Depositions, affirm that there is nothing proven but the Dancing about the Bonefire: for I am sure that no rational man, after he has read the *Depositions*, will say that there is nothing proven but his Dancing: so that these Persons he speaks of, must either not have seen the Depositions, or not have said and spoken so as he alledges: and I am sure that both Statesmen, Lawyers, and Ministers, after sight of the *Process* and Depositions, have said that the Presbytery might well have deposed him.

24. Whereas Mr. *Heriot* does again and again make a horrible clamour about making the Depositions of the Witnesses patent and their persons known, *that they may be insisted against*, &c. Here he discovers plainly his malicious design in demanding so often the making patent to him the names and Depositions of the Witnesses, *viz.* Not that he may Answer and vindicate himself (though sometimes he pretends to this impossibility) but *that they may be insisted against* and that he may pursue them for telling the Truth: and that even after they have sworn it, according to the best of their knowledge, and conscience. And let all rational persons judge if there be any shew of Candor or Honesty here, in his threatning to pursue the Witnesses meerly for their declaring (and that upon Oath, when called to it) what they and others saw with their Eyes, and heard with their Ears: does not this sort of threatning course, warrand the Church Judicatories before whom the Process lyes, to demand of Mr. *Heriot* and his party in *Dalkeith*, that they give sufficient security to the Magistrat, of their good and peacable behaviour towards these Witnesses, before the whole *Process* can be *Printed* with safety to the Witnesses: especially considering what violence has been already executed upon, and is yet farher threatned against others, by divers of Mr. *Heriot*'s party in *Dalkeith*. Here also the Reader may perceive a satsfying Reason, why in the preceeding short Narrative of the Process, the names of the Witnesses are not expressed. However Mr. *Heriot* may remember (for he doth know it) that some of these Witnesses have avowed and asserted to his face, even that Article of his Dancing about the Bonfire, and other things too; and that even since he emitted his threatning and lying Information; and although there were unworthy and indirect means and menaces used by his party to daunt the *Witnesses*, and drive them from their Testimony. To all this may be added, that the Authentick Depositions of the *Witnesses* were by the Presbytery given in to the General Assembly to have been publickly seen and read there; as they were afterwards again and again before the Synod; which shews that the *Presbytery* were no wayes Jealous of their validity and sufficiency, for probation.

25 Toward the end of his Information, he supplicats the Lords of their Majesties Privy Council, to take notice of this as a further evidence of the unjustice of the Sentence; that in the first Lybel there are many Articles, which are not Relevant, and yet the Presbytery by their Sentence found the Lybel relevant and proven, which must be understood (saith he) as to the hail Articles of the Lybel complexly, *than which there is nothing more false* (these last words are his, but the Reader may take them as the true Answer to what he has said and he aggravates this, as a very great miscarriage, and boldly alledges that both Presbytery and Synod have Acted contrary to expres Law, and have done open, and manifest unjustice, whereof all that heard of it, are convinced and sensible. *&c.* Ans. 1. *Bona Verba.* These things need no confutation, they are so evidenty false, and ridiculous: What need was there for Mr. *Heriot* to proclaim himself in Print, to be a Child in Ecclesiastical affairs? How does he affront the Honourable Lords of Privy Council by proposing such Stuff unto them, as this and several other things in his Petitions? He quarrels and challenges the Presbytery for sustaining the Lybel as Relevant, because (as he saith) there are many Articles in it which are not Relevant: this is rare Reasoning indeed: Does he not know, that if there had been but one Article in the Lybel Relevant, and other twenty in it not of that weight; yet the Lybel is Relevant notwithstanding? For these other lesser Articles, do no hurt to the Relevancy of the main Article, and consequently of the Lybel: and has he forgotten the old Proverb, *Et quæ non prosunt singula, juncta juvant?* But the Reader may judge of the Relevancy of the Lybel by the preceeding Narrative. 2. As to what he adds that this Acting of the Presbytery and Synod against him, is such an open and manifest unjustice, as that *all that heard of it are convinced and sensible of it.* This is such a gross and manifest lie, that I doubt whether he can make a greater, except he have taught his Tongue an extraordinary skill in that Art. Is it not time to leave and let him alone, when his rage and impudence is arrived at such a hight.

26, Yet before I let him go, it will not be amiss now in the close of this Paper, after having got such a taste of his skill in Divinity and Church-Government, to consider his skill in Law and Acts of Parliament, and I trow this Informer will be found no happier in the Law-part of his Paper, than he was in the Ecclesiastick part thereof.

1. He sayes, It is pretended that the Lords of Privy Council, are not Judges competent to the Sentence of Ecclesiastick Courts, and that as they cannot place, so they cannot displace or depose Ministars. But he Answers that by the first Act, 8. Parliament. *Ja.* the 6. It is statute that the King and Council shall be Judges competent to all persons spiritual and temporal

poral in all matters: and he sayeth, that to affirm that the Council is not Judge competent to the Sentences of Ecclesiastick Courts, is to give these Courts an Arbitrary power to do wrong at pleasure, without remeed or control. *Ans.* To this it is replyed, that in a matter that hath been so much debated, and is now so well understood it is strange that any man assuming to instruct others, should so much darken counsel without knowledge: For. 1. To make a Court soveraign, is not to make a Court Arbitrary: and yet this is the Informers only Argument why no Ecclesiastick Court can be Soveraign in the matter of Censures, Because then it would be Arbitrary. 2. The highest Asserters of the Supremacy before the Act of Parliament, 1669 (Which is now rescinded) did never affirm that the King or Council might by themselves reverse or redress Censures purely Ecclesiastick; but the outmost by them acclaimed was, and is, that, all remedy by Church Judicatures failing, the King or Council might with advice of the *sanior pars* put a stop to the procedure for some competent time, and recommend a review till better order might be re-established. But 3*dly*. The Informer might have found the Act of Parliament that he cites, thereafter plainly interpreted and restricted, *viz.* By the first Act of Parliament. 12. *Ja.* 6. Intituled, *Ratification of the Liberty of the true* Kirk, whereby it is expresly declared that the Act cited by the Informer shall no wayes be prejudicial to, nor derogate any thing from the priviledge, that God has given to the spititual Office-bearers in the Church, concerning the collation or deprivation of Ministers, *&c.* But this last Act the Informer did not, or would not think on: And certainly to understand the former Act so laxly as he doth, and to apply it to a case so plain and obvious as Mr. *Hersel's* Deposition, were no less then to overturn the Church, and introduce confusion.

2. But in Answer to what is said, *viz.* That the Council cannot put in Ministers, and therefore cannot meddle with Sentences deposing them, the Informer tells us, that though the Council has not the power of Admission and Ordination, yet if a Presbytery should refuse without cause to admitt and ordain a Minister having a lawfull Call, Letters may be direct to charge them to do it; *multo magis* in the case of Deposition is the Council the most proper Judge to restore, against the oppression of an unjust Sentence. *Ans.* But 1. The Informer forgets that the Councils Power to charge, in the case he supposes, was allowed to fortify the presentation of the Patrons, when in use, and so to maintain that mixed Right, partly Civil and partly Ecclesiastical, which they pretended to: But now that presentations are abolished, and that the matter of Calling and of Entering Ministers is by the late Act of Parliament referred to the Determination of the Presbytery of the bounds, to be by them concluded; the remedy, in case of difference upon a Call,

must no longer be by Letters of Horning, but by Appeals to the Synod, and from the Synod, to the Assembly, to be there ultimatly determined. And 2*ly*. There is, besides this mistake in the case supposed, a great disparity and inconsequence in the Argument thereon founded: For *Esto* that the Lords of Council may put the *Presbyteries* to do their duty, it doth not therefore follow that in case they refuse, the Council may do it for them; which yet must be the Informers inference, or otherwise he concludes nothing: But all the Magistrate doth in such a case, is to bring the matter before some *Superior* Ecclesiastick Court, that may supply the fault of the Inferior; which without the Magistrate's interposing, hath through Mr. *Heriots* importunity, been done in this case, once and again, much more than was necessary.

3. But why in the matter of an ordinary *Sentence* of Deposition, judged and rejudged by the judicatories of the Church, should the Informer bring things to these extremes as if we were in the case of some great and important matter, about which the Church it self was divided, and the Magistrat oblidged to interpose, for preventing some ruining prejudice: Certainly, if such clamours be allowed on every occasion of this kind, the excellent Establishment, which we have lately by Law obtained, is of little or no use, and both King and People must be in perpetual disquiet. For can the Informer upon the smallest reflection think, that his clamour should prepondérate with the Magistrat to the Sentence of the Presbytery, ratified over and again by the Synod and the Assembly, whom God and the Law have intrusted with the final Judgment of such matters: So that were the *Sentence* even doubtful (as it is not) yet its very Authority should oblidge to an acquiescence: How much more is the Informer to be blamed, who notwithstanding of Mr. *Heriot's* undenyable contumacy and several grois Immoralities proven against him, whereof almost any one is sufficient for Deposition, doth upon some ill applyed notions of form and other bold falshoods and calumnies in point of Fact, offer to make such a stirr and noise, which yet no wise man regards.

Finally. To what is said, I add a few words more. 1. This *Juridico-Theologaster* might have remembered (if he had not forgotten his Logicks) that two Powers, as well as other things, may be so far distinct, as to be neither *Co-ordinata*, nor *Subordinata*, but *Disparata*: And I take it neither to be Heterodoxical, nor Paradoxical, to say so of the Civil and Ecclesiastical Power; for it hath been asserted by no mean men; yea, sometimes before the Supreme Judicatory of this Kingdom, and that upon the highest peril. So that Mr. *Heriot* might very well have spared his idle and ignorant Story of a *Regnum in Regno*.

2. Mr. *Heriot* by his heterogeneous Appeal has made way for farther extravagancy of this kind: For some of his sort have stumbled upon a rare kind of Appealing from the *Presbytery* to the Synod, Commission of the Church, General Assembly, Council of State, and the King, all at once, *simul & semel*: and thereby (if this sort of *saltus* come in fashion) do enervate, and render all Judicatories, both Civil and Ecclesiastical, in a great measure useless, and would bring all to the Kings personal and immediate determination, when ever any party finds, or but fancies that he is wronged by any Judicatory: and what the consequences of this ridiculous sort of Appealing would be, some men will not have the fear, and I cannot have the wit to foresee.

3. As to the particular case in hand; Whatever the Civil power or Supremacy may be, or is, according to Law, I thought it had been reserved for greater and better uses and ends, than the sheltering of a Scandalous Curate from the moderate, just, Legal and deserved Censure and Sentence of Judicatories acting according to the established Laws: and if either Civil or Ecclesiastical Judicatories, suffer themselves and their legally settled order to be disturbed, by such groundless, bold and false clamours and alledgeances as these of Mr. *Heriot*, they may be sure of disturbance enough for this and the following Generations: But they are wise enough to foresee and prevent this and other evils designed by the common Adversaries.

POSTSCIRPT.

SInce the preceeding Answer to Mr. *Heriots* Information was drawn, I have had a sight of a second Edition of that Paper, which has these words in the close added to the former.

" And whereas, some persons have strongly asserted to the Lords of their " Majesties Privy Council and others. 1. That Mr *Heriot* was never refus- " ed a sight of the Lybels and *Depositions*, but that they were given him. 2. " That the Presbytery and *Alexander Calderwood* were removed out of the " Synod upon Mr. *Heriots* Declinator against them. It is answered 1. That " he did many times and with great earnestness crave a sight of the Lybels and " Depositions, both in the Assembly and Synod; which was refused, as a " hundred persons who heard him will witness, and none of the Clerks of " the Assembly, Synod, or Presbytery (in whose hands and custody the Lybels " and Depositions are) will dare to affirm that ever they were given to Mr. " *Heriot* to see. 2. Mr. *Heriot* at his first appearance before the Synod, de- " clined the *Presbytery* and *Alexander Calderwood* from being his Judges, " they being his parties: and before Mr. *Heriot* gave in his Appeal, he was " four times removed, while the Synod considered the defences he made for " himself; and none of the Synod can affirm, that the Presbytery and *Alex-* " *ander Calderwood* were removed with him; but at his return after the seve- " ral Removals, he found them always present; and the said *Alexander Calder-*

" *wood*, and several others of their number, did in face of the Synod debate " against him, when he made his Legal defences: Which the Synod having " unjustly repelled, he thereupon Appealed, and immediatly came away: " so that there is nothing more certain, than that the *Presbytery* and *Alex-* " *ander Calderwood* sat as his Judges after Declinatour. And it was upon these " two grounds among the rest, that Mr. *Heriot* Appealed from the Synod; " Because they refused him a sight of the Lybel and Depositions, which Law " allowed him; and that the Presbytery and *Alexander Calderwood* sat as his " Judges, albeit they were his parties, which is certainly true. And albeit " after the Appeal, and Mr. *Heriot's* going away, the Presbytery and *Calder-* " *wood* were removed, at the time of the Vote of Mr. *Heriots* pre-deter- " mined Deposition, it doth not take away the truth of the Reason of the " Appeal.

" And whereas beside the false Alledgeance of Dancing about a Bonfire, there " is now other Articles suggested to be proven. Mr. *Heriot* makes no Answer " thereto, because of the uncertainty thereof, hoping that the Lords of their " Majesties Privy Council, will in their Justice, and conform to Law, Or- " dain the Lybels and Depositions of the Witnesses to be seen, and then Mr. " *Heriot* can openly clear himself, from whatever shall appear to be proven " against him.

But to this *Crambe* long and often *recocta*, I reply, 1. In general to the whole of it. 1. This is but a very sorry Cotonis, which here (after long study) he adds for confirmation or covering of his former lies, which he should rather have retracted, than thus have patched them so pitifully: But *Raro vidi Clericum pœnitentem*. 2. What discretion or deference Mr. *Heriot* has herein used towards the Lords of their Majesties privy Council, in reprinting with new Additions, a Paper once presented to their Honourable Board, in an other form, and in tabling so many lies before their Lordships, belongs to another enquiry than this, and is *alterius fori* to determine. 3. As he has here said no new thing, so the Judicious Reader, will easily gather a sufficient and satisfying answer from what has been formerly said, partly in the Historical Narration of the matter of Fact, and partly in the preceeding answer to his Information: to which therefore I refer the Reader.

2. Yet lest Mr. *Heriot* complain that we do not consider his learned Defences; I shall (for his satisfaction) speak a little more particularly in Answer to this his second and Additional Information, which is a kind of Additional Lybel against the Synod and Presbytery.

1. To his old and again new clamour about his being refused a sight of the Lybels and Depositions, I Answer, there is more falsehood than truth in this clamorous complaint of his: For 1. He got a Copy of his Lybel hard and fast in his own hand at his first and only compearance before the *Presbytery of Dalkeith*. 2. He never yet sought a sight of the small Addition that

was

was made to his Lybel, nor of the Depoſitions of the Witneſſes; this he never yet ſought in time, place, or manner, convenient. 3. There is neither Law nor Reaſon (notwithſtanding of all his Stentorian clamour about it) why he ſhould be indulged a ſight of the Depoſitions of the Witneſſes 1. After he had declined the Presbytery as no Judicatory and having no power: for then what had they more adoe with him? Was it not time for them to ſhake him off as he had ſhaken them off? 2. After *Sentence* is paſt, both in the Presbytery and *Synod*. 3. After he has (even in his Print) threatned the Witneſſes, and ſome of his party have executed violence upon ſome of them. 4. After he was allowed, if he had pleaſed, to hear both the Lybels and Depoſitions of the Witneſſes read before him, by the *Synod*: but he would not ſtay. 5. Before he give ſufficient ſecurity for his own and his parties good and peaceable behaviour towards the Witneſſes. 6. Before he quit and leave his old Huffing, Hectoring, Threatning, Lying and Railing Stile and Humour, which would have ſpoiled a good cauſe, whatever it may do to his bad one.

2. As to his renewed Clamour about the Presbyteries ſitting ſtill in the Synod. 1. He ſaith, that *it is certainly true*, and *there is nothing more certain than that the Presbytery of* Dalkeith *and* Alexander Calderwood *ſat in the Synod as his Judges after his Declinator given in againſt them.* I Anſwer, that notwithſtanding of his redoubled confident aſſertions of it as moſt certain, yet it is certainly falſe that they ſat there and then, as his Judges: for they had no Vote there in his Caſe, and no judgement paſt upon it while they were there: and they were in due time removed. 2. He objects, that they were his Parties, and were not ſo ſoon removed as he. I Anſwer, becauſe they were his Parties, therefore they ought to have been heard as well as he, and ſo behooved to ſtay a little after he was gone, eſpecially ſeing he took it not well that any of them offered to drop a word in his preſence, and foolishly calls it an interrupting of him: he thinks that he alone ſhould ſpeak, and none of his oppoſites muſt Anſwer him, neither before his face nor behind his back; and that then he would win the Cauſe and carry all before him. *Eia!* 3. Whereas he ſaith that *though the Presbytery* and A. *Calderwood were removed at the time of the Vote, yet this takes not away the truth of the reaſon of the Appeal, that they ſat as Judges before the Appeal.* I Anſwer 1. They ſat not as Judges in his affair then and there, and paſſed no Judgement nor deciſive Vote therein, but were in all due time removed. And this takes away both the truth and the Relevancy of the Reaſon of the Appeal. 2. I ſuppoſe Mr. *Heriot* would have had better manners than to have ſpoken contemptibly of his Aged and (for ought I know) his beſt friend, if he had remembred, *Iſa.* 9, 15. Which text alone (not to mention many others) would have better informed him, who are and who are not to be reſpected, and alſo Who are the true and real *Faces Populi.* 4. That expreſſion, *the Vote of* Mr. *Heriots predetermined Depoſition*, is malicious and falſe, except perhaps he mean, that it was predetermined *in Decreto Divino*; in this ſenſe it is true indeed, yet

nothing to his purpose, and let him take what comfort he can from it, and make his best of it: But otherwise I would ask him when, where, how and by whom his deposition was predetermined? I know not how he can make sense of this loud Lie, except he say that the Voting Members of the Synod had before their Vote predetermined in their own minds to depose him; for there neither was, nor could be any other humane predetermination before the determining Vote: Now this predetermination was not and could not, be long before their Vote: because Mr. *Heriot* does here say that the Synod *removed him four times while they were considering his Defences*; from whence it follows, both that he was fully heard notwithstanding of all his clamours about alledged interruption, and also that the Members of the Synod considered his defences before they voted: So that the Synods Crime must be, that after hearing and considering his Defences four times, they did yet notwithstanding of all this, predetermine in their own minds his Deposition, before they voted it. But this rare Crime *I* may timeously enough Apologize for, after that Mr, *Heriot* by his next *I*nformation has informed me, how they could possibly Vote either his deposition, or any thing else, before they had determined it, every man in his own mind. Formerly we heard him storming and quarrelling again and again, because some of the Members of the Synod and Presytery presumed to speake in his presence: and here by this objected, new and unaccountabl predetermination, he quarrels the Synod for presuming to think before they spoke when they voted, *Macte*! *I*s not this a rare Reason of appeal? and if it hold, will it not be a sufficient ground of appeal from all Judicatories in Church or State, and from all Judges who come not in an exact *Æquilibrium* and as a *Tabula rasa*, without either light or affection for the one side more than the other, either to cognosce upon or vote in the cause of any Criminals, who come before them? *I* see Mr, *Heriot* growes more and more Sublime in his Defensive Notions: and its like that in his third Apologetick *I*nformation he may soar quite above all ordinar reach and capacity: and then he may deserve and get a *Longum Vale*.

Other things in this *A*ddition to his Information have been already anticipated, or answered; and there is no need of multiplying any moe words about it.

The candid and serious Reader is desired to excuse the seeming levity of some, and tartness of other Expressions in this Answer! For in dealing with such a Huffing and Absurd Antagonist, it is hard to forbear both Anger and Laughter: Yet I have chosen rather to Laugh than Rage and Storm as he doth, although I think he is such a Person as with whom if a man contend, whether he Rage or Laugh, there is no rest: And therefore I have been the less curious as to the manner of handling him: seing I have little hope that any sort of humane dealing with him shall be very successful. However let the impartial Reader now judge, whether Mr. *Heriot* had any just Cause or Occasion given him to exclaim so Wickedly and Horribly against the Presbytery of *Dalkeith* and Synod of *Lothian* and *Tweddale*, as he doth all alongst in his false and Virulent *I*nformation.

Finally, this Examination of Mr. *Heriot's* Paper, is humbly submitted to the Censure of the Presbytery and Synod concerned, and more especially to the consideration of the Members of the next ensuing General Assembly: Many of whom may perhaps upon the bare Reading of such an Apologetick *I*nformation (though no Answer had been annexed to it) get such a character of the mans Spirit and Temper, as will sufficiently clear and convince them, that he not only deserves all that he has met with, but something more. FINIS.

ERRATA.

Page. 8 Lyn. 11. Read *Seven*. p. 9. l. 8. and p. 10. l. 14. r *assistants*. p. 11. l, 4. r. *Nicol*. p. 19. l. 25. r. *condescend*. p. 20. l. 8. r. *prevented*. p. 30. l. 28. *Delem*. p. 40. l. 33. r. *they*.